

F.O.I.A.

JULIUS ROSENBERG ET AL.

FILE DESCRIPTION

HQ

FILE

SUBJECT

ROSENBERG

FILE NO.

65-58236

VOLUME NO.

30

SERIALS

1561

John

1634

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File No: 65-58236
SECT. 30

Re: JULIUS ROSENBERG
Re: METROPOL V. MEESE

Date: 11/86
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
1561	3/20/53	PH LETTER TO HQ	1	1	
1562	3/20/53	AG LETTER TO HQ	2	2	b2 b7D
1563	3/23/53	W/ENCL. NY LETTER TO HQ, BA, PH	5/1	5/1	
1563	3/28/53	HQ LETTER TO BA, PH, NY	1	1	
1564	3/2/53	NY TT to HQ	2	2	
1565	3/6/53	NY TT to HQ	1	1	
1566	3/9/53	NY TT to HQ	1	1	
1567	3/11/53	NY TT to HQ	1	1	
1567	3/23/53	HQ LETTER TO NY	1	1	
1568	Recd. 3/24/53	THIRD PARTY LETTER	1	1	
1568	3/17/53	HQ RESPONSE TO 3 rd PARTY	1	1	
1569	3/10/53	W/ENCL AAG LETTER TO HQ	1/1	2	

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PRE PROC

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			Actual	Released	
1569	3/24/53	HQ LETTER TO ADG	1	1	b7c
1570	3/17/53	NY AIRTEL TO HQ	3	3	b7c
1570	3/24/53	HQ LETTER TO ADG	5	5	
1571	3/18/53	NY AIRTEL TO HQ	2	2	b7c
1572	3/18/53	NY A/T TO HQ	1	1	
1573	3/19/53	NY A/T TO HQ	5	5	b7c
1574	3/24/53	HQ A/T TO PH, NY	2	2	b7c
N/R	3/25/53	PH A/T TO HQ, NY	1	1	
1575	3/20/53	BRANIGAN MEMO TO BERMAN	3	3	b7D b2
1576	^{Reid} 3/31/53	LA TTE HQ, NY	1	1	b1 b2 b7D
1576	3/27/53	HQ LETTER TO ADG	1	1	
1577	3/30/53	HQ LETTER TO ADG	3	3	

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REV REL DEN REF PRESUMED PREPROC

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			Actual	Released	
1578	3/25/53	NY A/T to HQ	2	2	
N/R	4/27/53	NEWS SERVICE ITEM	1	1	
1579	3/30/53	PH LETTER TO HQ, BA, NY	2	2	
1579	4/10/53	HQ LETTER TO AAG	2	2	
1580	3/30/53	PH REPT HQ, NY	4	4	
1581	4/4/53	BA LETTER TO HQ, PH, NY	1	1	
1582	3/26/53	NY A/T to HQ, PH	3	3	b7c
1582	4/2/53	HQ LETTER TO AAG	1	1	b7c
1583	3/30/53	WFO A/T to HQ	1	1	
1584	4/3/53	NY A/T to HQ	2	1	
1585	4/3/53	NY A/T to HQ	2	2	
1586	3/20/53	FOREIGN SERVICE DESPATCH	2	4	DISPOSITIVE HANDLED BY STATE (2)
			21	21	0 0 0 2
			REV	REL	DEN REF PRESUMED PREPROC

File No: 65-58236
SECT. 30

Re: JULIUS ROSENBERG
Re: MEEROPOL V. MEESE

Date: 11/86
(month/year)

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			Actual	Released	
1587	4/2/53	NY TT to HQ	1	1	
1588	3/31/53	PH Aft to HQ, NY	1	1	
1589	4/9/53	Rec'd 3rd PARTY ENVELOPE + ENC. FR	1/6	1/6	
1589	4/1/53	HQ LETTER TO 3rd PARTY	2	2	
1590	3/27/53	w/ENC TREASURY LETTER TO HQ	1/13	0	14 pgs referred IRS
1590	4/7/53	HQ LETTER TO NY	1	0	1 pg referred IRS
1591	3/24/53	PH TT to HQ, BA, NY	1	1	
N/R	4/7/53	FOREIGN SERVICE DESPATCH	1	1	DISPOSITION HANDLED BY STG. E (1)
1592	4/9/53	d ENC NY LETTER TO HQ w/ENC	1/2	1/2	
1592	4/27/53	HQ LETTER TO AGS	1	1	
1593	4/13/53	w/ENC WFO LETTER TO HQ, NY	1/6	1/6	
1594	3/15/53	USA SDNY LETTER TO HQ	2	2	

40 25 0 15 0 1
REV REL DEN REF PRESUMED PREPARE

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Re: METROPOL V. MEESE

Date: 11/86
(month/year)

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			Actual	Released	
1594	3/3/53	HQ LET TO USA, SAN Y	2	2	
1595	4/10/53	HQ LET TO NY	1	1	
1596	4/9/53	HQ TT to NY	1	1	b7c
1597	4/8/53	NY A/T TO HQ, BA	1	1	
1598	4/8/53	BRANNIGAN MEMO TO BERANET w/ ENC	4/71	6/71	
1599	4/8/53	NY TT to HQ	1	1	
1600	4/8/53	NY A/T to HQ	2	2	b7c
1600	4/14/53	HQ LETTER TO AAG	2	2	b7c
1601	4/21/53	HQ LET to AAG	2	2	
1602	4/21/53	NY LET TO HQ w/ ENC	1/36	1/36	
1603	4/14/53	BA TT to HQ, NY, PH	1	1	
1604	4/10/53	BA A/T to HQ, NY	2	2	b2 b7D b7C

129 129 0 0 0 0
REV REL DEN REF PRESUMED PREPROC FBI/DOJ

File No: 65-582
SECT. 30

Serial	Date
1614	4/29/53
1615	4/24/53
1616	10/21/53
1617	4/21/53
N/R	4/23/53
1618	10/21/53
1619	4/29/53
N/R	4/22/53
N/R	4/30/53
1620	5/1/53
1620	5/1/53
1621	4/27/53
1622	4/30/53

File No: 65-58236
SECT. 30Re: JULIUS ROSENBERG
Re: MEEROPOL V. MEESEDate: 11/86
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
1605	4/22/53	HQ CABLE TO PARIS	1	1	b1
1606	4/15/53	NY TTE HQ	1	1	
1607	4/13/53	NY AT TO HQ W/ENC	2/9	2/9	
1607	4/24/53	HQ LET TO NY	1	1	
1608	4/14/53	BA TT to HQ	1	1	
1609	4/16/53	NY AT TO HQ	5	5	
1609	4/27/53	HQ LET TO AAG	3	3	
1610	4/20/53	BELMONT TO LADD MEMO	6	6	b7C
N/R	4/20/53	INCOMING fr STATE	-	-	DISPOSITION HANDLED BY STATE DIRECT RESPONSE (2)
1611	4/30/53	NY LET TO HQ, W/ENC	1/3	1/3	
1612	4/28/53	NY WFO REPT HQ, LA, SE	7	1	6 pgs referred to U.S. Mint
1613	4/28/53	BRANIGAN MEMO TO BELMONT	4	4	b7C b7D

44 38 REV. 0 6 0 2
REV REL DEN REF RESUMED PREPROC

File No: 65-58236
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1623	5/4/53	SPENCER TO BELMONT ^{MEMO}	1	1	
1624	4/27/53	WFO TT to HQ	1	1	
1625	4/30/53	NY TT to HQ	7	7	
1625	5/1/53	HQ LET TO AG	5	5	
1626	5/8/53	DIRECTOR MEMO ^{TOLSON LADD} TO NKHOLS	1	1	
1627	5/7/53	HQ LETTER TO NY	1	1	
1628	4/13/53	^{W/ENCL.} TREASURY LETTER TO HQ	1/17	0	18 pp referred IRS
1628	4/23/53	HQ LET TO NY	1	0	1 pg referred IRS
1629	4/30/53	PH TT to HQ, NY	1	1	
1630	5/2/53	NY TT to HQ	3	3	
1630	5/7/53	HQ LET TO AG	1	1	
1631	5/7/53	HQ LAB LET TO NY	1	1	

41 22 0 19 0 0
REV REL DEN REF RESUMED PREPARE

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			Actual	Released	
1632	4/28/53	NY TT to HQ	1	1	
N/R	4/29/53	FOREIGN SERVICE DESPATCH	-	-	Disp. handled by State (3)
1633	5/4/53	WFO TT to HQ	1	1	
1634	4/28/53	NY A/T to HQ/enc	5/13	5/13	
1634	4/29/53	HQ A/T to PH, NY	3	3	
			23	23	0 0 0 3
			REV	REL	DEN REF PRESUMED PREPROC

Office Memorandum

UNITED STATES

GOVERNMENT

TO : DIRECTOR, FBI

FROM : SAC, PHILADELPHIA (65-4350)

SUBJECT: JULIUS ROSENBERG, et al
ESPIONAGE - R

DATE: 3/20/53

G.I.R.-6

Re New York Air-Tel to Bureau, 2/27/53.

Mr. DAVID GREENGLASS, inmate, United States Penitentiary, Lewisburg, Pa., was interviewed on March 17, 1953, at which time he stated he never knew anyone by the name of DE PALMA and never heard either of the ROSENBERGS mention this name.

RUC.

WGH:ngt

cc: New York (65-15348)

RECORDED-8

MAR 23 1953
15

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/23/83 BY 2022 pwt/mrc

50 MAR 26 1953

Office Memorandum • UNITED STATES GOVERNMENT 98956

TO: DIRECTOR, FBI (65-58236)

DATE: March 20, 1953

FROM: ALBUQUERQUE (65-45)

SUBJECT: JULIUS ROSENBERG
ESPIONAGE
OO: New York (65-15346)

Re New York airtel to the Bureau, undated, copy of which was received by the Albuquerque Office on February 27, 1953.

The City Directory for Albuquerque, New Mexico, for the year 1952, reflects one CHARLES A. DE PALMA, wife, ROSIE B. DE PALMA, who reside at 918 W. Silver Avenue, Albuquerque, and who are the operators of the Western Artists Monument Company.

The City Directory also lists DOMINIC C. DE PALMA, who resides at the same address and who is also connected with the same business.

The indices of the Albuquerque Division contain no information concerning any of these individuals.

Albuquerque Confidential Informants [redacted] and [redacted], who are familiar with Communist Party membership and activities in the Albuquerque area, advised that informants never heard of the DE PALMAS.

The Albuquerque Credit Bureau files reflect that CHARLES A. DE PALMA resided at Gallup, New Mexico, for twenty years prior to 1940 and has resided in Albuquerque since April of 1940. He previously was in the restaurant and monument business in Gallup. In May of 1940 the Credit Bureau reported that he owned two homes in Albuquerque valued at \$6,500.00. The Credit Bureau files reflect a good reputation and no derogatory data relating to CHARLES A. DE PALMA. It contains no information concerning ROSIE B. DE PALMA or DOMINIC C. DE PALMA.

The files of the Identification Division of the Albuquerque Police Department contain no record of CHARLES A. DE PALMA, ROSIE B. DE PALMA, or DOMINIC C. DE PALMA.

CC/jm
CC: 1- Philadelphia
2- New York City

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 10/31/82 BY 3042 PWT/1mm

RECORDED - 96

INDEXED - 96

MAR 24 1953

67 MAR 27 1953

AQ 65-45

March 20, 1953

In view of the fact that the DE PALMAS have never come to the attention of this Office in connection with subversive activities of any type and since they are unknown to informants of this Office and, further, in view of the fact no specific allegation has been received concerning them, no further investigative attention will be afforded this matter until a further request is received.

RUC.

65-58236-1562

Office Memorandum • UNITED STATES GOVERNMENT

TO : Director, FBI (

DATE: MAR 23 1953

FROM : SAC, New York (65-15348)

SUBJECT: JULIUS ROSENBERG, et al
ESPIONAGE - R

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 1/23/86 BY 2042 pvt/De

G.L.R.

Re NY Air-Tel 3/18/53

For the info of Philadelphia and Baltimore, DAVID and RUTH GREENGLASS testified in the above-captioned trial that JULIUS ROSENBERG told them that the Russians had given him a console table which he used to do his micro-film work. DAVID testified that he had made two clamps for JULIUS to attach to this table.

Mr. THOMAS V. KELLY, Legal Dept., Macy's Dept. Store, NYC, telephonically advised AUSA JAMES B. KILSHEIMER, III, that EMANUEL H. BLOCH, Attorney for the ROSENBERGS, had telephonically contacted him and asked whether it would be possible for Macy's to identify a console table as one that had been sold by the store. KELLY told KILSHEIMER that BLOCH had sent an investigator, LEON SUMMIT, to his office with photographs of the table.

On 3/18/53 Mr. KELLY was interviewed by SAs ROBERT F. ROYAL and JOHN A. HARRINGTON at his office at Macy's. Mr. KELLY advised the agents of the telephone conversation with BLOCH and gave the following details of this conversation:

He stated that BLOCH told him on the phone that he had recently located a console table of the ROSENBERGS about which there had been considerable testimony during the trial. Mr. KELLY asked BLOCH why he had not produced the table at the trial where it could have been identified by a representative of Macy's. BLOCH told KELLY that he did not know the whereabouts of the table at that time and that only recently he had learned that one of the ROSENBERGS' sisters had taken the table, a vase and other bric-a-brac from the ROSENBERG apartment and had placed it in the "Grandmother's" house. BLOCH told KELLY that the rest of the ROSENBERG'S furniture had been sold to a second-hand dealer. (KELLY stated that BLOCH did not further identify the ROSENBERGS' sister or the grandmother. The sister could be either LENA SOHEN or ETHEL GOLDBERG. It is believed that the grandmother refers to JULIUS' mother rather than Mrs. TESSIE GREENGLASS.)

REGISTERED - SPECIAL DELIVERY

- Enc. 1
2- Baltimore (REGISTERED - SPECIAL DELIVERY)
2- Philadelphia (Encs. 6) (REGISTERED - SPECIAL DELIVERY)

JAH:RMcn

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1436 NOV 10 1960

RECORDED - 101

101 - INDEXED

MAR 24 1953

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Tel Bldg
NY 3-25-53
3-30-53
APL:ant

65-58736-153
MAR 24 1953
15

Letter to the Director, FBI
NY 65-15348

Mr. KELLY advised that BLOCH offered to send the table to Macy's store for an examination by a Macy's representative or, if it were satisfactory with Mr. KELLY, he offered to submit photographs of the table. Mr. KELLY told BLOCH that the photographs would be satisfactory. BLOCH told KELLY that in the event an identification was made he would like to have the person making the identification submit an affidavit as to this effect. BLOCH drew up a form of affidavit and mailed it to Mr. KELLY.

Mr. KELLY advised that on 3/14/53 LEON SUMMIT, who identified himself as an investigator employed by BLOCH, delivered to his office 6 photographs of a console table. KELLY advised that these photographs were examined by JOSEPH FONTANA, a Buyer for Macy's, and as a result of this examination he executed an affidavit. Mr. KELLY made available a copy of this affidavit and a photostatic copy of the same is being submitted to the Bureau.

For the convenience of the Bureau, Philadelphia and Baltimore this affidavit is being set forth herein verbatim:

"STATE OF NEW YORK)
)
COUNTY OF NEW YORK) :SS

"JOSEPH FONTANA, being duly sworn, deposes and says:

"I reside at 19 Litchfield Road, Port Washington, Long Island, New York. I am presently employed by R. H. Macy & Co., Inc., (Macy's) and have been continuously so employed since 1919. I was the buyer of occasional furniture for Macy's during the years 1944 and 1945.

"On March 14, 1953, there was submitted to me for observation and examination, certain photographs of a console table, depicting various views of the same and parts of the same. I have marked each of these photographs with my signature; there are a total of six photographs and I have marked them 'A' to 'F', both inclusive.

Letter to the Director, FBI
NY 65-15348

"I make the following statement voluntarily and based upon what I observed from the said photographs. I am assuming that the photographs, and the markings as shown on the console table, are genuine:

"(a) The table is a type and style which was handled and sold by Macy's in the furniture and occasional furniture department. It is possible that Macy's handled and sold the particular table shown in these photographs during the years 1944 and 1945.

"(b) The markings on the table are not in sufficient detail for me to state that Macy's handled or sold this particular table, or this type or style of table during any particular year.

"(c) The Table would appear to have been manufactured by the Brandt Manufacturing Company and the markings 'N N 4046-760-F4-1997' on the under side of the table would indicate the following information:

" 'N N' means Macy's occasional furniture department

" '4046' is the pattern number assigned by Brandt Manufacturing Company to this style in the year 1940

" '760' means the Brandt Manufacturing Company Cabinet Works of Hagerstown, Md.

" 'F4' is a symbol of a Macy season; 'F4' was last used as a symbol in the fall season of 1936; however, 'E4' was last used as a symbol in the early part of 1944. A view of photographs 'E' and 'F', which are close-ups, show that the seasonal symbol could be read as either 'F4' or 'E4'. The use of 'E4' would be consistent with the manufacturer's pattern number.

" '1997' is Macy's retail selling price of \$19.97.

"(d) This console table was one of the lower priced tables sold in Macy's furniture department sometime during or subsequent to the year 1944, if the symbol 'E4' is correct.

"Sworn to before me this
16th day of March, 1953"

Letter to the Director, FBI
NY 65-15348

Mr. KELLY also made available to the agents a copy of the above-described photographs which he had made at his own expense. Mr. KELLY advised that he was forwarding the affidavit to BLOCH by mail on 3/18/53 and that Mr. SUMMIT was to pick up the photographs on the same date. Mr. KELLY advised that he saw no reason for submitting this affidavit to BLOCH but that it had been the decision of the officials of Macy's to do as BLOCH asked.

At the request of the agents Mr. KELLY is having the records of Macy's checked to determine when the store first sold these tables, when it discontinued such sale or whether it is still selling such tables. KELLY advised that if the marking on the table is "F4" it would be inconsistent with the seasonal markings of Macy's if it was argued that the table was bought in 1944 or 1945.

It is requested that the leads for Philadelphia and Baltimore be covered at the earliest possible date.

It is expected that this affidavit concerning the table will be one of the grounds of an application by BLOCH for a new trial on the basis of newly discovered evidence. This was mentioned to Mr. KELLY and he advised that BLOCH told him that this was his intention.

LEADS

BALTIMORE

At Hagerstown, Maryland

Will exhibit the above-described photographs when received from Philadelphia to the offices of the Brandt Manufacturing Company Cabinet Works and determine whether this table is recognized as one manufactured by this firm. Will determine the date that this table was first manufactured, particularly whether an identical table was manufactured prior to 1940 or in 1936 and when manufacture of this table ceased.

When this lead has been covered Baltimore will advise the Bureau, Philadelphia and NY of the results immediately

Letter to the Director, FBI
NY 65-15348

LEADS cont'd

and will return the photographs to NY where NY will exhibit these photographs to RUTH GREENGLASS.

PHILADELPHIA

At Lewisburg, Pennsylvania

Will exhibit the enclosed photographs to DAVID GREENGLASS and determine whether he recognizes it as the table that he made the clamp for. DAVID should not be advised of the source of these photographs.

As soon as this has been done Philadelphia will advise the Bureau, Baltimore and NY of the results of this examination by GREENGLASS and forward the enclosed photographs to Baltimore.

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

JOSEPH FONTANA, being duly sworn, deposes and says:

I reside at 19 Litchfield Road, Port Washington, Long Island, New York. I am presently employed by R. H. Macy & Co., Inc., (Macy's) and have been continuously so employed since 1919. I was the buyer of occasional furniture for Macy's during the years 1944 and 1945.

On March 14, 1953, there was submitted to me for observation and examination, certain photographs of a console table, depicting various views of the same and parts of the same. I have marked each of these photographs with my signature; there are a total of six photographs and I have marked them "A" to "F", both inclusive.

I make the following statement voluntarily and based upon what I observed from the said photographs. I am assuming that the photographs, and the markings as shown on the console table, are genuine:

(a) The table is a type and style which was handled and sold by Macy's in the furniture and occasional furniture department. It is possible that Macy's handled and sold the particular table shown in these photographs during the years 1944 and 1945.

(b) The markings on the table are not in sufficient detail for me to state that Macy's handled or sold this particular table, or this type or style of table during any particular year.

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"4046" is the pattern number assigned by Brandt Manufacturing Company to this style in the year 1940

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"F4" is a symbol of a Macy season; "F4" was last used as a symbol in the fall season of 1936; however, "F4" was last used as a symbol in the early part of 1944. A view of photographs "E" and "F", which are close-ups, show that the seasonal symbol could be read as either "F4" or "E4". The use of "E4" would be consistent with the manufacturer's pattern number.

"1997" is Macy's retail selling price of \$19.97.

(d) This console table was one of the lower priced tables sold in Macy's furniture department sometime during or subsequent to the year 1944, if the symbol "E4" is correct.

Sworn to before me this
16th day of March, 1953.

Notary Public in and for the State of New York
2450 Broadway

Commission Expires March 20, 1954

Certificates Filed with:
New York and Kings County Clerks
New York and Kings County Reg. Off.
Commission Expires March 20, 1954

MARCH 28, 1953

URGENT

SAC, BALTIMORE
PHILADELPHIA
NEW YORK

RELIUS ROSENBERG, et al, ESPIONAGE DASH N, RE NEW YORK LET
MARCH TWENTYTHREE, LAST, SETTING OUT LEADS RE CONSOLE TABLE
ROSENBERGS ALLEGEDLY BOUGHT FROM MACY'S, EXPEDITE AND BUTEL
RESULTS.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 1/23/84 BY 3042 PWT/AD

RECORDED 185-58236-1563
APL:amb

NOTE: DAVID Greenglass testified at trial Rosenberg told him Russians gave Rosenbergs, as a present console table which was adapted by Rosenberg for doing microfilm work in espionage. Rosenberg denied allegations but admitted on stand he had console table he bought from Macy's in 1944 or 1945. When agents arrested Rosenberg 7-17-50 they searched his apartment and found no console table. Bloch, Rosenbergs attorney, now claims to have found table recently at home of a Rosenberg relative and has asked Macy's to identify it. Macy representative examined photos of table submitted by Bloch and signed affidavit dated 3-16-53 that it is a type of table which Macy's sold. Bloch intends to use affidavit as one of the grounds of his application for new trial on basis of newly discovered evidence. AUSA Kilsheimer is cognizant of this. Macy's has given NYO copies of photos received from Bloch. NYO letter 3-21-53 set out leads for above offices to identify origin of this table and exhibit photos to the Greenglasses. It is not believed contention of Bloch that above table came from Macy's, even if proved, would have any effect in discrediting Greenglass testimony. 1) It does not prove this table is identical with one described by Greenglass. 2) Even if identical, it can be argued by the government the Russians could have bought it at Macy's and given it to Rosenbergs. 3) Bloch has no proof other than Rosenberg's word that Rosenberg bought it from Macy's. However, in view of immminence of Rosenberg application to Supreme Court, above leads should be immediately covered so that we can advise Department of results.

COMMUNICATIONS SECTION

MAR 28 1953

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NOV 10 1968

APR 6 1953

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

MAR 2 1953

TELETYPE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 7/25/86 BY 3000wph

FBI - NYC 3-2-53 10-40 PM

DIRECTOR URGENT

Mr. Tolson _____
Mr. Ladd _____
Mr. Nichols _____
Mr. Belmont _____
Mr. Glavin _____
Mr. Harbo _____
Mr. Rosen _____
Mr. Tracy _____
Mr. Gearty _____
Mr. Mohr _____
Mr. Winterrowd _____
Tele. Room _____
Mr. Holloman _____
Mr. Sizoo _____
Miss Gandy _____

JULIUS ROSENBERG, WAS, ET AL, ESP R. DAVID ENGELSON APPEARED FGJ, SDNY, THIS DATE WITH ATTORNEY EUGENE L. SUGARMAN. JUST PRIOR TO ENGELSON-S DISMISSAL BY FGJ, ATTORNEY SUGARMAN CONTACTED RE INTERVIEW OF ENGELSON. SUGARMAN ADVISED AFTER ENGELSON COMPLETES HIS TESTIFYING TODAY, HE HAD NO FURTHER INTEREST IN HIM. ENGELSON CONTACTED ON STREET ELEVEN THIRTY FIVE AM THIS DATE SUBSEQUENT TO FGJ APPEARANCE. INVITED NYO AND INTERVIEWED. ADVISED HE DESIRED TO CONFER WITH ATTORNEY PRIOR TO ANSWERING ANY QUESTIONS AND STATED THAT HE DESIRED TO ~~QUOTE~~ THINK IT OVER ~~UNQUOTE~~ AND WOULD CONTACT NYO BY MARCH SIX NEXT. MARY ENGELSON, WIFE OF DAVID, SIMULTANEOUSLY INTERVIEWED AT THEIR BUSINESS ADDRESS, NINE FERRY ST., NYC. MRS. ENGELSON SAID THAT SHE WAS ACQUAINTED WITH JULIUS AND ETHEL ROSENBERG AND IDENTIFIED PHOTOGRAPHS OF BOTH. SHE SAID SHE ~~BECAME~~ KNEW THEM AS NEIGHBORS BUT ADVISED SHE AND HER HUSBAND WERE NOT INTIMATE OR CLOSE FRIENDS OF THE ROSENBERGS. SHE SAID SHE BECAME ACQUAINTED WITH ETHEL ROSENBERG THROUGH MEETING HER AT PLAYGROUND IN KNICKERBOCKER VILLAGE WHERE SHE AND ETHEL TOOK THEIR CHILDREN. SHE SAID SHE ALWAYS FELT THAT THE ROSENBERGS WERE POOR BECAUSE OF THEIR MANNER

RECORDED - 111

105-58236-1564

CORR LINE FIVE LAST WD SHD BE "THIRTY"

MAR 18 1953

CORR LINXX LAST LINE LAST WD SHD BE "MANNER"

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486 NOV 10 1960

END OF PAGE ONE
53 MAR 27 1953

Signature

PAGE TWO

OF DRESS AND AS A RESULT SHE GAVE ETHEL ROSENBERG A BOX OF DISCARDED CLOTHES WHICH HER CHILDREN HAD OUTGROWN. ENGELSON ADVISED THAT ETHEL ROSENBERG PICKED THESE CLOTHES UP AT THE ENGELSON-S APARTMENT. THIS WAS THE ONLY TIME THAT ETHEL ROSENBERG HAD BEEN THE ENGELSONS APARTMENT. MRS. ENGELSON SAID SHE DID NOT RECALL WHEN THIS OCCURED, BUT SAID ETHEL HAD HER YOUNGER SON THE CARRIAGE AT THE TIME AND BROUGHT HIM WITH HER, LEAVING THE CARRIAGE OUTSIDE. SHE SAID NEITHER SHE NOR HER HUSBAND HAD EVER BEEN IN THE ROSENBERGS APARTMENT. SHE SAID ABSOLUTELY THAT NEITHER OF THE ROSENBERGS HAD EVER LEFT A PACKAGE AT THE ENGELSONS APARTMENT FOR SAFEKEEPING AND SAID SHE NEVER RECEIVED ANYTHING FROM THE ROSENBERGS TO HOLD. SHE SAID SHE WAS SURE THAT HER HUSBAND NEVER RECEIVED ANYTHING FROM JULIUS TO HOLD, ALTHOUGH HE WAS ALSO ACQUAINTED WITH THE ROSENBERGS. THE INTERVIEWING AGENTS DID NOT GO INTO MRS. ENGELSON-S PREVIOUS CP CONNECTIONS SINCE SHE WAS ALONE AT THE TIME AT HER PLACE OF BUSINESS WHICH REQUIRED HER ATTENTION. IT IS ANTICIPATED THAT MRS. ENGELSON WILL BE INTERVIEWED AT THE NYO CONTINGENT UPON THE COOPERATIVE ATTITUDE OF HER HUSBAND, DAVID. AUSA LOUIS KAPLAN ADVISED THIS DATE THAT ENGELSON INFORMED FGJ, SDNY, THAT HE WOULD MAKE AVAILABLE HIS BOOKS AND RECORDS TO USA DN THE US SECRET SERVICE BY MARCH SIX NEXT. AUSA KAPLAN AND SECRET SERVICE AGENT EDWARD SWEENEY ADVISED THIS DATE THAT THEY WOULD MAKE ENGELSON-S BOOKS AND RECORDS AVAILABLE TO THE NYO. BUREAU WILL BE KEPT ADVISED OF ANY DEVELOPMENTS OF THIS MATTER.

BOARDMAN

cc: Mr. Belmont

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

MAR 9 1953

TELETYPE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/23/86 BY 3042 pwt/nc

Mr. Tolson	_____
Mr. Ladd	_____
Mr. Nichols	_____
Mr. Belmont	_____
Mr. Clegg	_____
Mr. Glavin	_____
Mr. Harbo	_____
Mr. Rosen	_____
Mr. Tracy	_____
Mr. Gearty	_____
Mr. Mohr	_____
Mr. Winterrowd	_____
Tele. Room	_____
Mr. Holloman	_____
Mr. Sizoo	_____
Miss Gandy	_____

FBI

NYC

3-9-53

10-39 PM

TM

DIRECTOR

URGENT

JULIUS ROSENBERG, ET AL, ESP-R. RE DAVID ENGELSON. DAVID AND MARY
ENGELSON ISSUED SUBPOENA MARCH NINE TO APPEAR BEFORE FGJ, SDNY,
WEDNESDAY, MARCH ELEVEN NEXT. AUSA JAMES KILSHEIMER WILL INTERROGATE
ENGELSONS.

BOARDMAN

HLD

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~~67 APR 2 1953~~

~~62 APR 21 1953~~

RECORDED-74

G L R - 8

145-58236-1566
MAR 18 1953

cc Branigan

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

MAR 11 1953

TELETYPE

Tolson _____
S. Ladd _____
Mr. Nichols _____
Mr. Belmont _____
Mr. Clegg _____
Mr. Glavin _____
Mr. Harbo _____
Mr. Rosen _____
Mr. Tracy _____
Mr. Gearty _____
Mr. Mohr _____
Mr. Winterrowd _____
Tele. Room _____
Mr. Holloman _____
Mr. Sizoo _____
Miss Gandy _____

FBI NYC 3-11-53 9-32 PM TM
DIRECTOR URGENT

JULIUS ROSENBERG, ET AL, ESP- R. DAVID AND MARY ENGELSON APPEARED
TODAY BEFORE FGJ, SDNY, AND REFUSED TO ANSWER ALL QUESTIONS SUBMITTED
ON GROUNDS THAT ANSWERS WOULD TEND TO INCRIMINATE THEM.

BOARDMAN

CORR LAST LINE WD 2 SHD BE "GROUNDS"

HLD

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/23/86 BY 3042 PWT/abc

RECORDED-52

MAR 26 1953

18

*Letter to
3-23-53
4/4/53
cc Branigan*

65-58236-15675-1
Tracy

SAC, New York (65-15348)

March 23, 1953

Director, FBI (65-58236)

RECORDED-52

65-58236-1567
JULIUS ROSENBERG, et al.
ESPIONAGE - R

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 7/23/86 BY 3042 PWT/HK

ReurTel 3-11-53, advising that David and Mary Engelson refused to answer all questions before a FGJ on the grounds that their answers would tend to incriminate them.

You are requested to continue your inquiry into the complete financial background of David Engelson in an effort to trace the source of his funds, including complete data on specific black market transactions engaged in by him.

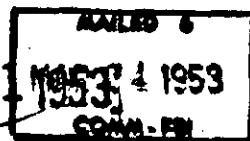
You are also requested to have the U.S. Attorney, Southern District of New York, advise the U.S. Probation Officer of Engelson's refusal to cooperate and to determine what effect, if any, this might have on his probationary status.

The Bureau should promptly be advised of any important developments.

APL:MEM *now*
NOTE: Source of unknown reliability advised that Rosenberg, prior to arrest, gave \$7000 and Leica camera to wife, Ethel, who turned it over to unknown CP member. Engelson, known Communist and acquaintance of Rosenbergs, is considered suspect for unknown CP member. Engelson pled guilty in Dec., 1952, to illegal dealings in gold in black market and received two years suspended sentence and probation. He reportedly has been cooperating with Secret Service, against his co-conspirators in black market. Bureau authorized NY to interview Engelson. Engelson refused to be interviewed and was subpoenaed by U.S. Attorney, SDNY, to appear before FGJ. He still refuses to cooperate. In view of his probationary status, it is believed U.S. Attorney should inform U.S. Probation Officer of his attitude and determine whether same may be considered in revoking his probation. 2 DEB: DE JUDGE

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Gandy _____

53 MAR 31 1953



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Handwritten signatures and initials

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/23/86 BY 3042 PWT/MS

Carolyn Sable
39-D Boone Drive
Turtle Creek Pa.
JULIUS ROSENBERG
ETHEL ROSENBERG

Dear Sirs

I am making an inquiry into the trial of Julius and Ethel Rosenberg and I am searching for information concerning this topic. I understand that complete copies of all testimony and court proceedings are available. Could you please make know any and all sources of information, such as places or people to whom I may write.

I have been studying court trials and the Rosenbergs case in school. I would enjoy getting all the information I can.

Thank You
Carolyn Sable

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MAR 24 1953
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ack 3-15-53
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Handwritten initials and signature in the bottom right corner.

March 17, 1953

RECORDED-14

INDEXED-14 **65-58236-1568**

Miss Carolyn Sable *C. Sable*
35-D Boone Drive
Turtle Creek, Pennsylvania

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/23/86 BY 3042 PHL/US

Dear Miss Sable:

Your communication postmarked March 10, 1953, has been received, and I regret to advise that the FBI does not have any material available for distribution on the topic you mentioned.

The thought occurs to me that you may be able to secure the information you desire by referring to recent issues of various newspapers in your local public library since there has been extensive news coverage recently relating to the case you described.

Sincerely yours,

John Edgar Hoover
Director

cc - Pittsburgh, with copy of incoming

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Belmont _____
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COMM - FBI
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MAR 18 1953
MAR 18 1953

See

Office Memorandum • UNITED STATES GOVERNMENT

TO : Director, Federal Bureau of Investigation
 FROM : *WJ* Warren Olney III, Assistant Attorney General
 Criminal Division
 SUBJECT: JULIUS AND ETHEL ROSENBERG
 ESPIONAGE - R

DATE:

March

WO:PCD:

146-11

Mr. Tolson	_____
Mr. Clegg	_____
Mr. Nichols	_____
Mr. Belmont	_____
Mr. Glavin	_____
Mr. Rosen	_____
Mr. Tracy	_____
Mr. Egan	_____
Mr. Gurnea	_____
Mr. Harbo	_____
Mr. Mohr	_____
Mr. Winterrowd	_____
Tele. Room	_____
Mr. Holloman	_____
Mr. Sizoo	_____
Miss Gandy	_____

Reference is made to our memorandum, dated February 19, transmitting a letter from Mrs. Elizabeth M. Fitzpatrick, in the captioned matter.

A copy of Mrs. Fitzpatrick's reply, which she has written on this Division's letter to her of February 19, 1953, is being forwarded for your consideration.

Enclosure No. 102582

RECORDED - 23

INDEXED - 23

65-58234-156

38 MAR 11 1953

27

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED

DATE 7/23/86 BY 3042 PWT/NLC

per release

3-24-53
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Belmont
Lumina
ESP SEC

EX-111-1100-1111

UNITED STATES
DEPARTMENT OF JUSTICE
WASHINGTON 25, D. C.

February 19, 1953

WJ:JAC:tm

146-41-15-133

Mrs. Elizabeth M. Fitzpatrick
91 Clifford Avenue
Pelham, New York

Dear Mrs. Fitzpatrick:

I have your letter of January 25, 1953, to the President of the United States which has been referred to the Criminal Division for reply.

It is suggested that you make available to the nearest office of the Federal Bureau of Investigation any information you might have in regard to this case. Your letter has been forwarded to the Federal Bureau of Investigation for its consideration.

Respectfully,

For the Attorney General

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 7/23/86 BY 3642 JMT/ALC

/s/ Warren Olney III
WARREN OLNEY III
Assistant Attorney General

2/21/53

Dear Mr. Olney,

Thank you for the above.

I would prefer to discuss this case in my own home--91 Clifford Avenue - Pelham.

Thanking you again, I am

Very truly

(Mrs.) Elizabeth M. Fitzpatrick

91 Clifford Avenue
Pelham - N.Y.

65-58236-1569

ENCLOSURE

Assistant Attorney General
Warren Olney III

CC - Mr. Belmont

March 24, 1953

Director, FBI

JULIUS AND ETHEL ROSENBERG
ESPIONAGE - R

CONFIDENTIAL

Reference is made to your memorandum dated
March 10, 1953, your reference WO:PCD:tn 146-41-15-123.

Mrs. Elizabeth M. Fitzpatrick was interviewed
by a Bureau agent on March 3, 1953. From the tenor of
her conversation it appeared that she might be [redacted]
[redacted] It was determined she did not know the
Rosenbergs or the Greenglasses. She expressed the
opinion that from her more than thirty years in the
public school system it appeared to her that the
Rosenbergs were trying to steal "health" from the
Russians.

The foregoing is for your information.

65-58236

APL:mem

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/23/86 BY 3042 pmt/arc

RECEIVED HEADQUARTERS

FBI

MAR 24 3 50 PM '53

- Tolson
- E. A. Tamm
- Belmont
- Clegg
- Glavin
- Ladd
- Nichols
- Tracy
- Laughlin
- Mohr
- Winterrowd
- Tele. Rm.
- Holloman
- Gandy

COMM - FBI

MAR 25 1953

MAILED 28

FBI
REC'D BELMONT

RECEIVED DEPT. OF JUSTICE

RECEIVED

FBI

REC'D - 10:24:20 AM

APR 2 1953

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AM

AIR TEL
FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

NY, 3/17/53

Transmit the following Teletype message to: BUREAU

JULIUS ROSENBERG; ESP - R. [REDACTED] CONFIDENTIALLY ADVISED TODAY, THAT MRS. TESSIE GREENGLASS AND BERNARD GREENGLASS VISITED ETHEL ROSENBERG ON THE 14 LAST. DURING THIS VISIT ETHEL HER MOTHER AND HER BROTHER, AND ACCUSED THEM OF ATTEMPTING TO HARM HER BY TALKING TO THE FBI, -AND BY TRYING TO GET HER (ETHEL) TO CONFESS AND INVOLVE INNOCENT PEOPLE. [REDACTED] STATED THAT DURING THIS INTERVIEW ETHEL YELLED AND RAVED TO SUCH AN EXTENT, THAT SHE WAS CAUTIONED BY THE GUARD THAT THE INTERVIEW WOULD BE TERMINATED UNLESS SHE QUIETED DOWN. [REDACTED] ADVISED THAT ON THE 16 LAST ETHEL AND JULIUS HAD THEIR VISIT, AND JULIUS TOLD ETHEL THAT HE HAD SEEN MRS. GREENGLASS AND BERNARD WHEN THEY CAME TO VISIT ETHEL. JULIUS STATED THAT THEY WAVED TO HIM, BUT MADE NO ATTEMPT TO TALK TO HIM. JULIUS TOLD ETHEL THAT GENE KELCH IS SUPPOSED TO HAVE TOLD BERNARD GREENGLASS THAT A DEAL HAD BEEN MADE BY THE GREENGLASSES WITH THE GOVERNMENT TO SAVE THEM, AND THAT JULIUS AND ETHEL WOULD OBTAIN THE DEATH SENTENCE. JULIUS STATED IT WAS IMPORTANT FOR BERNARD TO GET AN AFFIDAVIT FROM DAVID GREENGLASS, THAT THE TOOLS, WHICH HE OBTAINED, HAD NOT BEEN BOUGHT BY HIS WIFE, BUT HAD BEEN STOLEN BY HIM FROM THE ARMY, AND THAT DAVID (ROSENBERG) TOLD BERNIE THAT THERE WAS SOME

③ - Bureau (REGULAR MAIL - REGISTERED) RECORDED-88

JAH:PEC (#6)
65-15348

Approved

Special Agent in Charge

Sent

Per

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 7/23/86 BY 3042 pat/jlc

FD-36

Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Garty
Mr. Mohr
Mr. Winterrowd

Mr. [REDACTED]
Mr. [REDACTED]
Mr. [REDACTED]

Mr. [REDACTED]
Mr. [REDACTED]

Mr. [REDACTED]
Mr. [REDACTED]

Mr. [REDACTED]
Mr. [REDACTED]

UNRECORDED COPY FILED IN 65-59028

65-58236-1570

MAR 18 1953

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FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

PAGE TWO

Transmit the following Teletype message to:

URANIUM AMONG THE TOOLS. JULIUS TOLD ETHEL THAT BERNIE WAS TO BE ENCOURAGED TO VISIT BLOCH, AS SOON AS POSSIBLE, AND BEFORE THE FBI COULD CONTACT HIM, BECAUSE HE IS A WEAK SISTER. BLOCH VISITED JULIUS AND ETHEL YESTERDAY, AND TOLD THEM THAT ANN KAUFMAN WOULD NOT BE ABLE TO HELP EDIT THE BOOK THAT WAS BEING PUBLISHED. HE STATED THAT AN ATTEMPT WOULD BE MADE TO GET AN AFFIDAVIT FROM MR. ABRAMS OF THE EMERSON RADIO COMPANY, THAT A PROXIMITY FUSE HAD NOT BEEN MISSED FROM THE PLANT, (IT APPEARED THEY WERE REFERRING TO THE PROXIMITY FUSE THAT DAVID GREENGLASS TESTIFIED THAT JULIUS ROSENBERG TOLD HIM HE HAD TAKEN FROM THE EMERSON COMPANY IN A BRIEFCASE). BERNARD GREENGLASS WAS CONTACTED TODAY AND HE ADVISED THAT HE AND HIS MOTHER HAD VISITED ETHEL ON THE 14 LAST. HE STATED HE WAS VERY UPSET, AND DID NOT CARE TO DISCUSS THE CIRCUMSTANCES OF THIS VISIT. HE ADVISED THAT HE WOULD HAVE NOTHING FURTHER TO DO WITH ETHEL, BECAUSE HE WAS ONLY ABUSED IN WHAT EVER HE TRIED TO DO FOR HER. MRS. TESSIE GREENGLASS WAS CONTACTED AND SHE DID NOT DISCUSS THE FACT THAT SHE HAD VISITED ETHEL. SHE STATED THAT SHE WAS VERY SICK AND HAD NO INTENTION OF VISITING ETHEL OR JULIUS AGAIN, SINCE NO MATTER WHAT SHE TRIED TO DO SHE WAS ACCUSED OF DOING WRONG. IT WAS NOT DISCLOSED TO HER THAT HER VISIT TO ETHEL WAS KNOWN. RUTH GREENGLASS WAS CONTACTED TODAY, AND SHE WAS ADVISED

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

PAGE THREE

Transmit the following Teletype message to:

THAT IT WAS KNOWN THAT BERNARD AND HIS MOTHER HAD VISITED ETHEL. SHE STATED THAT IT WAS A VERY VERY UNSATISFACTORY VISIT, AND FROM WHAT SHE KNEW, ONE OF THE WORST VISITS THAT THE MOTHER AND BERNARD HAVE EVER HAD WITH ETHEL. SHE AT FIRST REFUSED TO DISCUSS THE CIRCUMSTANCES OF THIS VISIT, BUT FINALLY ADMITTED THAT ETHEL "WANTED OUT OF SING SING", BUT WOULD NOT COOPERATE. SHE BELIEVES THAT ETHEL WILL TRY DESPERATELY TO INVOLVE HERSELF, (RUTH), IF SHE SHOULD EVER TALK. SHE AGREED TO BE CONTACTED ON THE 19 NEXT, AT WHICH TIME SHE WILL ADVISE OF THE CIRCUMSTANCES OF THIS VISIT. FOR THE FURTHER INFORMATION OF THE BUREAU, IT IS NOTED THAT BERNARD GREENGLASS HAS REMARRIED, AND IS NOW LIVING AT NUMBER 279 EAST 92 STREET, APARTMENT 6G, TELEPHONE, DI 5-8819. DAVID ROSENBERG IS LIVING WITH HIS WIFE RUTH H. ROSENBERG, A REGISTERED NURSE, AT 430 EAST 63 STREET, ROOM 11. AN UNLISTED TELEPHONE IS REGISTERED UNDER THE NAME OF RUTH H. ROSENBERG, NUMBER TE 8-7962. THE BUREAU WILL BE ADVISED OF THE INTERVIEW WITH RUTH GREENGLASS ON THE 19 NEXT. WITHIN THE COMING WEEK, AN AGENT WILL VISIT [REDACTED] AND OBTAIN MORE DETAILED INFORMATION CONCERNING RECENT VISITS TO THE ROSENBERGS. THE BUREAU WILL BE ADVISED OF THE RESULTS OF THIS CONTACT.

b7c

BOARDMAN

MR. BELMONT
SAS SUPERVISOR
DOM. INTEL. DIVISION

Approved: _____

Special Agent in Charge

Sent _____

Per _____

Assistant Attorney General
Warren Olney III

March 24, 1953

RECORDED-88

65-58236-1570
Director, FBI

JULIUS ROSENBERG
ETHEL ROSENBERG
ESPIONAGE - R

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 7/23/86 BY 3042 PWT/MLC

CONFIDENTIAL

Information has been confidentially received that on March 14, 1953, Ethel Rosenberg was visited at Sing Sing prison by her mother, Mrs. Fessie Greenglass, and her brother, Bernard Greenglass. During this visit, Ethel berated her mother and brother and accused them of attempting to harm her by talking to the FBI and by trying to get her to confess and involve innocent people. During this interview, Ethel raved to such an extent that she had to be cautioned by the prison guard the interview would be terminated unless she quieted down.

It has also been confidentially determined that on March 16, 1953, Ethel and Julius Rosenberg had their visit, and Julius mentioned that he had seen Ethel's mother and brother when they came to visit Ethel. Julius stated they waved to him, but made no attempt to talk with him. Julius also mentioned that one Gene Alton (not further identified) was supposed to have told Bernard Greenglass that a deal had been made by David and Ruth Greenglass with the government to save themselves, but that Julius and Ethel would obtain the death sentence. Julius further mentioned to Ethel that it was important for Bernard Greenglass to get an affidavit from David Greenglass that he had stolen tools from the Army and that there was uranium mixed up with the tools.

In connection with the above, Ruth Greenglass was interviewed by a Bureau agent on March 19, 1953. She advised that during the visit of Fessie and Bernard Greenglass with Ethel on March 14, 1953, Ethel told them she knew that David Greenglass had stolen some uranium from Los Alamos and that he had lied to the FBI when they asked him about it. Ruth Greenglass advised the interviewing agent that her husband had actually taken a small piece of uranium from Los Alamos as a souvenir and had kept it in an old sock in the house, and that Bernard Greenglass knew of this. She also advised that a long time before her

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APR 2 1953

65-58236
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CC - 65-58023

COMM - FBI
MAR 25 1953
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husband, David, was arrested, he had taken the uranium and had thrown it in the East River, New York City.

This undoubtedly refers to an investigation instituted by the Bureau in 1949 in the case entitled [REDACTED] et al, Atomic Energy Act, Theft of Government Property, which involved the theft of uranium hemispheres from the Atomic Energy installation at Los Alamos. Investigation reflected that more than a thousand hemispheres were produced prior to 1946, and that a number of these hemispheres had been taken as souvenirs by various individuals employed at Los Alamos. Individuals who had access to these hemispheres during the pertinent period were interviewed by Bureau agents. A number of these hemispheres were recovered by the Bureau from certain of these individuals and returned to the Atomic Energy Commission. This matter was presented to your Division and an opinion was rendered that prosecutive action was not warranted. David Greenglass was interviewed concerning this matter in January, 1950, in view of his access to these hemispheres, and he denied any involvement in the theft of the material. b7c

During the visit of Ethel Rosenberg with her husband, Julius, on March 16, 1953, mentioned above, Julius informed Ethel that Bernard Greenglass was to be encouraged to visit Emanuel Bloch, their attorney, as soon as possible and before the FBI could contact him because Bernard "is a weak sister."

On March 16, 1953, Emanuel Bloch visited the Rosenbergs at Sing Sing Prison and told them that Ann Kaufman (not further identified) would not be able to help edit the book that was being published. It is believed that this was related to plans of the Rosenbergs, as reflected in the Communist press, that they intend having correspondence they have written from Sing Sing published in book form.

Mrs. Bloch also advised the Rosenbergs that an attempt would be made to secure an affidavit from Mr. Abrams of the Emerson Radio Company that a proximity fuse had not been missed from the plant. This apparently refers to the testimony of David Greenglass at the Rosenberg trial to the effect that Rosenberg told him he, Rosenberg, while employed at Emerson, stole a proximity fuse which he later turned over to the Russians.

Bernard Greenglass was contacted by agents of the New York Office on March 17, 1953. He stated he was very upset and did not care to discuss the circumstances of his visit at Sing Sing. He advised that he would have nothing further to do with his sister because he was always abused in whatever he tried to do for her.

Mrs. Tessie Greenglass was also contacted on the same date. She stated she was very sick and had no intention of visiting Ethel or Julius again, since no matter what she tried to do she was accused of doing wrong.

During the interview of Ruth Greenglass on March 18, 1953, mentioned above, she also related the following incidents which occurred during the visit of Ethel by Mrs. Tessie and Bernard Greenglass on March 14, 1953.

During this visit Ethel called her mother a "witch." Mrs. Greenglass told her daughter that she was only trying to help her and that she and Bernard had done everything Ethel and Bloch had asked them. Ethel stated she wanted to get out of Sing Sing and wanted a commutation on the grounds of mercy and not on any deal with the FBI.

Ruth Greenglass further advised that when her husband and Harry Gold were together in City Prison in New York City, Gold told David about seeing Julius Rosenberg in February, 1950, at the Elmhurst Station of a New York subway. It will be recalled that Harry Gold identified Julius Rosenberg as the person he saw at the assigned meeting place where Gold was to meet his Russian contact in February, 1950. You will recall that Gold was not approached on that occasion. You will also recall Harry Gold did not testify to this at the trial. Ruth Greenglass believed that Bernard Greenglass knew of this and recently advised Emanuel

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Holloman _____
Gandy _____

Bloch of this information. According to Ruth Greenglass, Bloch became upset and pointed out that Gold did not testify to this fact at the trial. Bernard told Bloch that was so, but in the event of a new trial, he could expect Harry Gold to give such testimony.

Ruth Greenglass also advised that on a recent occasion, Tessie Greenglass had visited Bloch and accused Bloch of not trying to free her daughter, and that his main job was to make sure that the Rosenbergs never talked. Thereafter, when Tessie visited Ethel at Sing Sing, Ethel told her mother that she knew of her encounter with Bloch. Ethel was infuriated about it. The mother told Ethel that what she had told Bloch was the truth and that Bloch is Ethel's worst enemy. She told Ethel that she should think of her children and do everything she can to obtain clemency. Ethel brushed off this remark with "Don't mention the children. Children are born every day in the week."

Assistant United States Attorney James Kilheiser has advised that Thomas V. Kelly of the Legal Department, Macy's Department Store, New York City, informed him that Emanuel Bloch called Kelly and asked if it was possible for Macy's to identify a console table as one sold by Macy's. Kelly advised Bloch it was possible, and later Bloch submitted to him, through Leon Summit, an investigator employed by Bloch, photographs of a console table with various markings. Kelly advised that these photographs were examined by a buyer employed by Macy's, who stated that they resembled the type of console table sold by Macy's in 1944 and 1945. Kelly presented an affidavit which is to be signed by this buyer and returned to Bloch. This obviously refers to testimony given by David Greenglass at the Rosenberg trial that the Russians had given to the Rosenbergs, as a present, a console table which had been adapted by Rosenberg for use in photographing documents which were obtained through his espionage activities. Rosenberg, in his testimony during the trial, admitted ownership of a console table, but stated he had purchased it at Macy's Department Store during a sale in 1944 or 1945. Inquiry was made at Macy's by Bureau agents during the trial in an effort to resolve this question, but in view of the voluminous material to be

examined in attempting to locate a sales slip, it was not felt advisable to conduct such a search. Further, if such a slip was located, it would not prove or disprove that any table purchased by Rosenberg at Macy's was identical with the table described by Greenglass.

The foregoing is for your information. You will be kept advised of any developments in connection with this matter.

AIR-TEL
FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

NEW YORK, NY. 3/18/53

Transmit the following Teletype message to: BUREAU

JULIUS ROSENBERG, ETAL, ESPIONAGE-R. [REDACTED]

CONFIDENTIAL

ADVISED THIS DATE THAT DAVID ROSENBERG, BROTHER OF JULIUS, VISITED JULIUS ON THE SEVENTEENTH LAST. JULIUS TOLD DAVID TO SEE EMANUEL BLOCH AND FIND OUT FROM HIM WHAT BERNARD GREENGLASS WAS TO TAKE UP WITH BLOCH. JULIUS TOLD DAVID TO TRY TO HAVE BERNARD VISIT BLOCH WITHOUT HIS MOTHER, MRS. TESSIE GREENGLASS, BECAUSE THE MOTHER WOULD OBJECT. JULIUS TOLD DAVID ROSENBERG TO TRY AND CHECK TO SEE IF THE FBI QUESTIONED DAVID GREENGLASS IN 1950 BEFORE HE WAS ARRESTED ABOUT MISSING URANIUM. IT APPEARED FROM THE CONVERSATION THAT JULIUS WAS EXPLAINING TO DAVID ROSENBERG THAT DAVID GREENGLASS HAD TOLD HIS BROTHER, BERNARD, THAT THERE WAS URANIUM MIXED UP WITH THE TOOLS. (THE BUREAU IS ADVISED THAT DAVID GREENGLASS HAD BEEN QUESTIONED IN JANUARY OR FEBRUARY, 1950 AS TO WHETHER HE HAD TAKEN ANY URANIUM OR ANYOTHER MATERIALS FROM LOS ALAMOS. DAVID WAS QUESTIONED BECAUSE OF ROUTINE INVESTIGATION ON ALL INDIVIDUALS PREVIOUSLY LOCATED AT LOS ALAMOS.) JULIUS TOLD DAVID TO CHECK ON A

③ - Bureau (REGISTERED MAIL)

JAH:BJH (#6)
65-15348

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY 3042 P4/WKC

RECORDED

MAR 19 1953

COPIES DESTROYED

486 NOV 10 1960

Special Agent in Charge

Sent

Per

APR 7 1953
APR 21 1953

FD-36
Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Egan
Mr. Gurnea
Mr. Hendon
Mr. Pennington
Mr. Quinn
Mr. Nease
Mr. Sizoo

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

PAGE TWO

LETTER SENT TO O. JOHN ROGGE BY THE "JEWISH DAILY FORWARD", WHICH LETTER RUTH GREENGLASS HAD SHOWN TO DAVID GREENGLASS WHEN SHE VISITED HIM AT LEWISBURG LAST WEEK. THIS LETTER APPARENTLY REQUESTS DAVID GREENGLASS TO ASK PRESIDENT EISENHOWER TO GRANT CLEMENCY TO THE ROSENBERGS. JULIUS TOLD DAVID ROSENBERG TO CONTACT BERNARD GREENGLASS AND HAVE HIM GET A COURT ORDER TO VISIT JULIUS ROSENBERG AS JULIUS WANTS TO TALK TO BERNARD ABOUT WHAT BERNARD CAN DO FOR JULIUS AND ETHEL.

[REDACTED] ADVISED THAT JULIUS SENT A LETTER TO EMANUEL BLOCH AND TOLD HIM THAT HE HAD SEEN MRS. TESSIE AND BERNARD GREENGLASS WHEN THEY VISITED ETHEL ROSENBERG ON THE FOURTEENTH LAST. JULIUS IN THIS LETTER STATES IN EFFECT THAT HE WOULD BE WILLING TO SEE THE GREENGLASSES, BUT THEY DON'T HAVE THE COURAGE TO VISIT THEM. THE BUREAU WILL BE ADVISED OF FUTURE DEVELOPMENTS. b7c

BOARDMAN

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

AIR-TEL
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

New York, New York 3/18/53

Transmit the following Teletype message to: BUREAU
JULIUS ROSENBERG, ET AL; ESP-R. THOMAS V. KELLY, LEGAL DEP'T,
MACY'S DEP'T STORE, NYC, ADVISED AUSA KILSHEIMER THAT EMANUEL
BLOCH SPOKE TO HIM ON THE PHONE LAST WEEK, AND ASKED IF IT WAS
POSSIBLE FOR MACY'S TO IDENTIFY A CONSOLE TABLE AS ONE SOLD BY
MACY'S. KELLY ADVISED BLOCH IT WAS, AND LATER BLOCH SUBMITTED
TO HIM THROUGH LEON SUMMIT, AN INVESTIGATOR EMPLOYED BY BLOCH,
PHOTOGRAPHS OF A CONSOLE TABLE WITH VARIOUS MARKINGS. KELLY
ADVISED THAT THESE PHOTOGRAPHS WERE EXAMINED BY A BUYER EMPLOYED
BY MACY'S, WHO STATED THAT THEY RESEMBLED THE TYPE OF CONSOLE
TABLE SOLD BY MACY'S IN 1944 AND 1945. KELLY PRESENTED AN
AFFIDAVIT TO BE SIGNED BY THIS BUYER, WHICH HE IS SENDING TO
BLOCH. KELLY WAS INTERVIEWED TODAY BY AGENTS OF THE NYO, AND
HE MADE AVAILABLE A COPY OF THE AFFIDAVIT AND COPIES OF PHOTO-
GRAPHS OF THE TABLE. A COPY OF THE AFFIDAVIT WILL BE SUBMITTED
TO THE BUREAU ON 3/19/53, TOGETHER WITH LETTER IN DETAIL RE
CONVERSATION WITH KELLY, AND WITH LEADS TO PHILADELPHIA AND
MARYLAND.

3 - Bureau (REGULAR MAIL)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY 3042 PWT/MC

JAH:JAT (#6)

65-16248-53
58 APR 5 1953

Special Agent in Charge
62 APR 23 1953

BOARDMAN

RECORDED-141 FIVE me
65-5236-1572

MAR 18 1953

24 26

Sent _____ M Per _____

AIR-TEL
FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 7/24/86 BY 3042PWT/ale New York, 3/19/53

Transmit the following Teletype message to: BUREAU

JULIUS ROSENBERG, ET AL; ESPIONAGE DASH R. RUTH GREENGLASS
WAS INTERVIEWED TODAY AND SHE RELATED THE FOLLOWING INCIDENTS
WHICH OCCURRED DURING THE VISIT OF MRS. TESSIE AND BERNARD
GREENGLASS TO ETHEL ROSENBERG AT SING SING ON MARCH FOURTEEN
LAST. SHE STATED THAT AS SOON AS MRS. AND BERNARD GREENGLASS
SAW ETHEL, ETHEL WENT INTO A RAGE AND ACCUSED THEM OF WORKING
AGAINST HER AND WITH THE FBI TO GET HER TO TALK AND IMPLICATE
INNOCENT PEOPLE. DURING THIS VISIT ETHEL CALLED THE MOTHER A
QUOTE WITCH UNQUOTE. MRS. GREENGLASS TOLD ETHEL THAT SHE WAS
ONLY TRYING TO HELP HER AND THAT SHE AND BERNARD HAD DONE
ALL ETHEL AND BLOCH ASKED THEM. SHE TOLD ETHEL THAT SHE WAS
ONLY TRYING TO GET HER SENTENCE COMMUTED AND THAT ETHEL SHOULD
DO EVERYTHING TO AFFECT THIS SAME END. ETHEL STATED THAT SHE
WANTED TO GET OUT OF SING SING AND WANTED HER SENTENCE COMMUTED,
BUT NOT ON ANY DEAL WITH THE FBI. SHE WANTED A COMMUTATION
ON GROUNDS OF MERCY. SHE ACCUSED THE MOTHER OF BEING WITH
THE QUOTE ENEMY UNQUOTE IN THAT MRS. GREENGLASS HAD GONE TO
VISIT DAVID GREENGLASS AT LEWISBURG WITH RUTH GREENGLASS.
ETHEL THEN ABUSED AND CALLED RUTH GREENGLASS ALL THE NAMES
THAT SHE COULD. RUTH ADVISED THAT THERE WAS SOME CONVERSATION
WHEREIN ETHEL TOLD THE MOTHER AND BERNARD THAT SHE KNEW THAT

- FD-26
- Mr. Tolson
 - Mr. E. A. Tamm
 - Mr. Clegg
 - Mr. Glavin
 - Mr. Harbo
 - Mr. Rosen
 - Mr. Tracy
 - Mr. Gearty
 - Mr. Mohr
 - Mr. Winterrowd
 - Tele. Room
 - Mr. Holloman
 - Mr. Sizoo
 - Miss Gandy

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436 NOV 30 1980

JAH:EJC (#6)

65-13548

77 APR 21 1953

Special Agent in Charge

RECORDED-141

Sent

24

Per

MAR 26 1953

APR 21 1953

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

PAGE TWO

DAVID GREENGLASS HAD STOLEN SOME URANIUM FROM LOS ALAMOS AND THAT HE LIED TO THE FBI WHEN THEY ASKED HIM ABOUT IT. PAREN SHE WAS REFERRING HERE TO THE VISIT BY AN AGENT TO DAVID GREENGLASS IN JANUARY OR FEBRUARY, FIFTY. PAREN. RUTH STATED THAT BERNARD KNEW THAT DAVID HAD A SMALL PIECE OF URANIUM THAT HE TOOK FROM LOS ALAMOS AS A SOUVENIR AND HAD KEPT IT IN AN OLD SOCK IN THE HOUSE. RUTH ADVISED THAT A LONG TIME BEFORE DAVID WAS ARRESTED AND DURING THE PERIOD OF TIME THAT SHE KEPT ASKING HIM TO STAY AWAY FROM JULIUS AND TO TELL THE FBI WHAT HE HAD DONE, DAVID HAD TAKEN THE URANIUM AND HAD THROWN IT INTO THE EAST RIVER. RUTH ADVISED THAT BERNARD AND THE MOTHER HAVE ASKED HER NOT TO TELL SA JOHN A. HARRINGTON ANYTHING ABOUT THIS VISIT BECAUSE THEY FEARED THAT THIS MIGHT CAUSE SOME HARM TO ETHEL. RUTH ALSO ADVISED THAT BERNARD IS [REDACTED] b7c

[REDACTED] IS CAUSING GREAT DISTRESS TO BERNARD, AND TOGETHER WITH HIS INTEREST IN HIS SISTER, IS PROBABLY THE REASON WHY HE HAS NOT ADVISED SA JOHN A. HARRINGTON OF THE VISIT TO ETHEL. THIS SITUATION WAS DISCUSSED WITH RUTH AND IT WAS POINTED OUT THAT IT WAS LIKELY THAT BLOCH WOULD GET BERNARD TO SUBMIT AN

Approved: _____

Special Agent in Charge

Sent _____

Per _____

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

PAGE THREE

AFFIDAVIT OF HIS KNOWLEDGE CONCERNING DAVID'S POSSESSION OF THE URANIUM AND USE THIS AFFIDAVIT IN A FURTHER EFFORT TO CHARACTERIZE DAVID AS A THIEF AND A LIAR. RUTH ADVISED THAT SHE WOULD SEE BERNARD AND WOULD SEE TO IT THAT HE MADE NO SUCH AFFIDAVIT. SHE FURTHER STATED THAT ANY INFORMATION COMING TO HER ATTENTION CONCERNING THE PLANS OF THE ROSENBERGS WOULD BE IMMEDIATELY TURNED OVER TO SA JOHN A. HARRINGTON. RUTH FURTHER ADVISED THAT WHEN DAVID AND HARRY GOLD WERE TOGETHER IN CITY PRISON, HARRY TOLD DAVID ABOUT SEEING JULIUS ROSENBERG IN FEBRUARY, FIFTY, AT THE ELMHURST STATION OF THE NY SUBWAY. IT IS RECALLED TO THE BUREAU THAT HARRY GOLD IDENTIFIED JULIUS AS BEING AT THE ASSIGNED MEETING PLACE WHEN HE WAS TO MEET WITH RUSSIAN CONTACT IN FEBRUARY, FIFTY. PAREN HARRY GOLD DID NOT TESTIFY TO THIS FACT AT THE TRIAL. PAREN. RUTH STATED THAT EITHER HARRY OR DAVID TOLD BERNARD GREENGLASS OF THIS AND THAT RECENTLY, ON A VISIT TO BLOCH'S OFFICE, BERNARD TOLD BLOCH OF THIS FACT. RUTH STATED THAT BLOCH BECAME VERY MUCH UPSET AND STATED THAT GOLD DID NOT TESTIFY TO THIS FACT AT THE TRIAL. BERNARD TOLD BLOCH THAT WAS SO, BUT THAT IN THE EVENT OF A NEW TRIAL HE COULD EXPECT HARRY GOLD TO TESTIFY TO THIS FACT. RUTH ALSO STATED THAT ON A RECENT OCCASION, MRS. TESSIE GREENGLASS HAD VISITED BLOCH'S OFFICE AND AFTER SOME DISPUTE,

Approved: _____

Special Agent in Charge

Sent _____

Per _____

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

PAGE FOUR

HAD TOLD BLOCH TO HIS FACE THAT HIS ONLY EFFORTS WERE TO SEE TO IT THAT BOTH JULIUS AND ETHEL DIED. SHE ACCUSED HIM OF NOT TRYING TO FREE HER DAUGHTER AND THAT HIS MAIN JOB WAS TO MAKE SURE THAT THEY NEVER TALKED, AND THE BEST WAY TO SECURE THIS END WAS TO HAVE THEM ELECTROCUTED. BLOCH BECAME INCENSED AT THIS AND TOLD MRS. GREENGLASS THAT IF SHE WAS NOT A WOMAN, HE WOULD REALLY TELL HER WHAT HE THOUGHT OF HER. WHEN TESSIE VISITED ETHEL AT SING SING, ETHEL TOLD THE MOTHER THAT BLOCH HAD TOLD HER WHAT SHE SAID TO HIM AND ETHEL WAS INFURIATED. THE MOTHER TOLD ETHEL THAT WHAT SHE HAD TOLD BLOCH WAS THE TRUTH, THAT ALL HE WANTS IS FOR HER TO DIE, THAT HE IS HER WORST ENEMY. SHE TOLD ETHEL THAT SHE SHOULD THINK OF HER CHILDREN AND DO EVERYTHING SHE CAN TO OBTAIN CLEMENCY. ETHEL BRUSHED OFF THIS REMARK WITH, QUOTE DON'T MENTION THE CHILDREN. CHILDREN ARE BORN EVERY DAY IN THE WEEK. UNQUOTE. THIS HARDNESS ON THE PART OF ETHEL TO HER OWN CHILDREN INFURIATED MRS. TESSIE GREENGLASS AND SHE AGAIN ACCUSED BLOCH OF BEING ETHEL'S WORST ENEMY. RUTH STATED THAT THERE WAS SO MUCH YELLING AT THIS MEETING THAT THE GUARD THREATENED TO PUT MRS. AND BERNARD GREENGLASS OUT OF THE JAIL IF ETHEL DID NOT QUIET DOWN. RUTH ADVISED THAT MRS. GREENGLASS IS A VERY SICK WOMAN AND THAT SINCE THIS VISIT TO ETHEL, HAS HAD VERY HIGH BLOOD

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

PAGE FIVE

PRESSURE AND IS PRACTICALLY CONFINED TO BED. FURTHER CONTACT
WITH RUTH GREENGLASS WILL BE REPORTED TO THE BUREAU.

BOARDMAN

CC: MR. BELMONT
AND SUPERVISOR
INVESTIGATIVE DIVISION

CC: MR. BELMONT
AND SUPERVISOR
DOM. INTEL. DIVISION

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

MARCH 24, 1953

AIR-TEL

MAIL

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

U.S. PHILADELPHIA

SECRET

DATE 7/24/86 BY 3042 PWT/ML

NEW YORK (BY MAIL)

JULIUS ROSENBERG, ETHEL ROSENBERG, ESPIONAGE - R. YOU ARE
AWARE ROSENBERG HAVE BEEN GRANTED STAY OF EXECUTION TO AFFORD
THEM OPPORTUNITY TO AGAIN APPEAL TO SUPREME COURT FOR WRIT OF
CERTIORARI. IN CONNECTION WITH THEIR EFFORTS TO OBTAIN NEW
TRIAL, SUBJECTS ARE ATTEMPTING TO SECURE ANY INFORMATION WHICH
WOULD PROVE DAVID GREENGLASS UNWORTHY OF BELIEF. IN 1949,
BUREAU INSTITUTED INVESTIGATION OF CASE ENTITLED [REDACTED]
[REDACTED] ET AL, AKA, ROSE, WHICH INVOLVED THEFT OF URANIUM
HEMISPHERES FROM AN INSTALLATION AT LOS ALAMOS. INDIVIDUALS
WHO HAD ACCESS TO URANIUM HEMISPHERES AT LOS ALAMOS WERE
INTERVIEWED, INCLUDING DAVID GREENGLASS. GREENGLASS INTERVIEWED
IN JANUARY, 1950, PRIOR TO OUR KNOWLEDGE OF HIS INVOLVEMENT IN
SOVIET ESPIONAGE. GREENGLASS DENIED SUCH THEFT OR KNOWLEDGE
OF ANYONE ELSE COMMITTING SUCH THEFT. ACCORDING TO RECENT INFOR-
MATION RECEIVED FROM RUTH GREENGLASS, DAVID HAD TAKEN A SMALL PIECE
OF URANIUM FROM LOS ALAMOS AS A SOUVENIR WHILE EMPLOYED THERE,
BUT DISPOSED OF IT BY THROWING IT IN EAST RIVER, NYC, A CONSIDER-
ABLE TIME PRIOR TO HIS ARREST. SHE ALSO ADVISED BERNARD GREENGLASS,
BROTHER OF DAVID, IS COGNIZANT OF THIS. DURING VISIT OF BERNARD
AND MRS. TESSIE GREENGLASS WITH ETHEL ROSENBERG AT SING SING
PRISON, 8-14-52, ETHEL TOLD THEM SHE KNEW DAVID HAD STOLEN URANIUM
AND HAD LIES TO THE FBI ABOUT IT. IT APPEARS ROSENBERGS ARE
ATTEMPTING TO PERSUADE BERNARD GREENGLASS TO SEE ROSENBERG ATTORNEY.

- Mr. Tolson
- Mr. Ladd
- Mr. Nichols
- Mr. Belmont
- Mr. Clegg
- Mr. Glavin
- Mr. Harbo
- Mr. Rosen
- Mr. Tracy
- Mr. Laughlin
- Mr. Mohr
- Mr. Winterrowd
- Tele. Rm.
- Mr. Holloman
- Miss Gandy

RECORDED-14

MAR 24 1953
COMM-FBI

165-58236-1574

MAR 25 1953

130

EMANUEL BLOCH, CONCERNING THIS MATTER. IT IS LIKELY BLOCH WILL TRY TO GET BERNARD TO SIGN AFFIDAVIT FOR SUBMISSION TO SUPREME COURT CONCERNING URANIUM THEFT IN EFFORT TO CHARACTERIZE DAVID GREENGLASS AS A TRICK AND LIAR. IMMEDIATELY INTERVIEW DAVID GREENGLASS CONCERNING THIS MATTER AND SECURE SIGNED STATEMENT WHICH SHOULD INCLUDE HIS REASONS FOR WITHHOLDING THIS INFORMATION FROM BUREAU AT TIME OF ORIGINAL INTERVIEW IN JANUARY, 1950, AND AT LATER INTERVIEWS. ADVISE IMMEDIATELY BUREAU AND NEW YORK RESULTS THEREOF.

HOOVER

Tolson _____
Ladd _____
Nichols _____
Belmont _____
Clegg _____
Glavin _____
Harbo _____
Rosen _____
Tracy _____
Laughlin _____
Mohr _____
Winterrowd _____
Tele. Rm. _____
Holloman _____
Gandy _____

Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Egan
Mr. Gurnea
Mr. Hendon
Mr. Pennington
Mr. Quinn
Mr. Nease
Miss Gandy

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/14/86 BY 3042 ptp/pc

AIRTEL

BUREAU (REGISTERED MAIL)
NEW YORK (REGISTERED MAIL)

FBI, NY

3/24/53

JULIUS ROSENBERG, ETAL, ESPIONAGE - R. REBUAIRTEL 3/24/53. ON 3/23/53 DAVID GREENGLASS FURNISHED SIGNED STATEMENT IN WHICH HE ADMITTED TAKING AS A SOUVENIR A HOLLOW URANIUM TWO THIRTYEIGHT HEMISPHERE, ONE INCH IN DIAMETER, WITH THREE THIRTY-SECONDS OF AN INCH WALL THICKNESS, WEIGHING TWO OR THREE OUNCES, FROM THE THIN SHEET, MANHATTAN PROJECT, LOS ALAMOS, TO HIS BARRACKS WHERE HE KEPT IT UNTIL 1946 WHEN HE SHIPPED IT TO HIS HOME IN ALBUQUERQUE AND LATER TO HIS HOME IN NYC. CLAIMED THESE PIECES OF URANIUM TWO THIRTYEIGHT FORMERLY USED FOR EXPERIMENTAL PURPOSES, BUT AT TIME HE TOOK THIS PIECE THE EXPERIMENT HAD BEEN DISCARDED AND THIS PIECE WAS SURPLUS. STATED MANY OF THESE PIECES USED FOR ASHTRAYS ON THE PROJECT, AND COST OF RECOVERING ANY VALUE FROM THEM AT THAT TIME WOULD HAVE BEEN PROHIBITED. STATED AFTER INTERVIEW BY FBI AGENTS IN JANUARY 1950 HE BELIEVES HE THREW THIS PIECE OF URANIUM IN EAST RIVER. STATED AFTER THIS INTERVIEW HE DID NOT WANT TO INVOLVE HIMSELF IN ANY FEDERAL OFFENSE AS WIFE PREGNANT AND NO LONGER CONNECTED IN ILLEGAL ACTIVITIES. STATED IN SUBSEQUENT INTERVIEWS WITH AGENTS DID NOT MENTION INCIDENT AS MATTER SLIPPED HIS MIND. STATED TO THE BEST OF HIS RECOLLECTION, HE TOLD WIFE AND BROTHER-IN-LAW JULIUS ROSENBERG OF THIS INCIDENT. REPORT FOLLOWS.

ABRATED

END

WGN/cjs
65-4390

65-58236-

NOT RECORDED
147 APR 9 1953

INITIALS ON ORIGINAL

67 APR 10 1953

ORIGINAL FILED IN 65-58236-396

Office Memorandum • UNITED STATES GOVERNMENT

TO : A. H. Belmont

FROM : W. A. Branigan

SUBJECT: JULIUS ROSENBERG, et al
ESPIONAGE - R

DATE: March 26, 1953

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 10/31/86 BY 3042 PWT/1/m

SYNOPSIS:

LA teletype 3-25-53 reports information received from informant that Rosenberg defense claims to have secured, through professional investigator, at cost of \$25,000, original statements given by David and Ruth Greenglass to FBI, and for another \$25,000 they will receive statement of a perjured witness whose name sounded to informant like "Philip Perlman." Informant also told original statement of David Greenglass did not mention Julius Rosenberg and for that reason was extremely valuable.

Above does not coincide with known facts in this case. Greenglass first interviewed by Agents 6-15-50 at his home. He was brought to NYO that evening and furnished signed statement implicating Julius Rosenberg. He subsequently furnished five additional statements amplifying his, Julius and Ethel Rosenberg's activities in espionage. Ruth Greenglass first interviewed 6-16-50 with negative results. She furnished no statement. On 7-17-50 she furnished signed statement implicating both Rosenbergs. NYO has in its possession all of above statements furnished by Greenglasses in its files. No record in Rosenberg case of witness bearing name "Philip Perlman" or similar name.

RECOMMENDATION:

Attached for your approval is a letter for transmittal to the Department advising of the above. In view of information from NYO that all statements of Greenglasses are in its possession and inasmuch as information supplied by informant does not coincide with known facts in this case, it is recommended that no further action be taken in this matter.

Attachment *sent*
65-58236
APL:mem:brg

RECORDED - 23

165-58236-1575

13 MAR 31 1953

22 APR 6 1953

Tolson _____
Ladd _____
Nichols _____
Belmont _____
Clegg _____
Glavin _____
Harbo _____
Rosen _____
Tracy _____
Gandy _____
Mohr _____
Tele. Room _____
Holloman _____
Sizoo _____
Miss Gandy _____

DETAILS:

By teletype dated March 25, 1953, the Los Angeles Office advised that [informant] reported on March 23, 1953, that Sophie Davidson, Chairman, Los Angeles Committee to Secure Justice in the Rosenberg Case, [swore him to secrecy] and advised him as follows: b7D b2

While in NYC on March 18, 1953, to attend dinner given to raise funds for the Rosenbergs, Davidson was in the office of David Alman, National Executive Secretary of the Committee to Secure Justice in the Rosenberg Case. Alman advised Davidson that through a professional investigator (identity unknown) the original statements given the FBI by David and Ruth Greenglass had been secured at a cost of \$25,000, and that for another \$25,000 they will receive a statement of a perjured witness whose name sounded to the informant like "Philip Perlman." Alman reportedly stated that David Greenglass' original statement did not mention Julius Rosenberg and for this reason was extremely valuable. Alman also stated that these statements would be used at the appropriate time and are expected to be extremely effective. LA requested that the identity of the informant be protected.

A review of Bureau files reflects that the above information does not coincide with the known facts in this case. David Greenglass was first approached by Agents of NYO at 1:46 P.M. on June 15, 1950, at his home and he allowed the Agents to search his apartment. He accompanied the Agents to the NYO, arriving at 5:25 P.M. At 9:25 P.M.

he admitted his espionage activities, and at 1:06 A.M. he signed a statement implicating Julius Rosenberg. He also signed additional statements, enlarging on his espionage activities and that of Julius and Ethel Rosenberg on the following dates: June 16, 1950 (second statement); July 17, 1950 (2 separate statements); July 19, 1950, and August 16, 1950. He also gave a question and answer statement to AUSA Myles Lane, SDNY, on August 4, 1950.

Ruth Greenglass was first interviewed on June 16, 1950, and refused to admit anything, stating that she wanted to talk to her husband. She did not give a signed statement at that time. She subsequently gave a signed statement on July 17, 1950, containing substantially the same information given by her husband and involving both Rosenbergs.

At 9:00 A.M., March 26, 1953, Mr. Hennrich telephonically contacted ASAC Whalen of NYO concerning the LA teletype and requested that a search be made of his files for all statements given by the Greenglasses to determine if they were in the New York files or if any disposition had been made of them. At 5:30 P.M., March 26, 1953, Mr. Whalen telephonically reported that a search of the files reflected that the New York Office was in possession of all the original statements and copies of the statements mentioned above made by David and Ruth Greenglass; further, that none of these statements were introduced at the trial. Mr. Whalen also pointed out that when Julius Rosenberg testified at the trial, he stated on direct examination that an Agent of the Bureau told him David Greenglass said he was recruited into espionage by Julius Rosenberg.

A review of this case reflects that no witness bearing the name "Philip Perlman" or any similar name had testified in the Rosenberg case.

F.B.I. TELETYPE

4-41a

(C) [REDACTED] **CONFIDENTIAL**

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

FBI LOS ANGELES

3-25-53

2:46 PM

252110

DIRECTOR, FBI AND SAC NEW YORK

Classified by 3042PWT/lmw

URGENT

Declassify on: OADR 10/31/82

JULIUS ROSENBERG, ET AL, ESPIONAGE, R. [REDACTED] ON MARCH 23
INSTANT STATED THAT [SOPHIE DAVIDSON, CHAIRMAN] LA COMMITTEE TO
SECURE JUSTICE IN THE ROSENBERG CASE, [SWORE HIM TO SECRECY] AND
ADVISED THAT WHEN IN NEW YORK CITY ON MARCH 18 LAST, TO ATTEND
THE DINNER GIVEN TO RAISE FUNDS FOR THE ROSENBERGS, DAVIDSON WAS
IN THE OFFICE OF DAVID ALMAN, NATIONAL EXECUTIVE SECRETARY OF THE
CSJRC, AND AFTER CLOSING THE DOORS AND BEING SWORN TO SECRECY
ALMAN ADVISED THAT THROUGH A PROFESSIONAL INVESTIGATOR, IDENTITY
NOT STATED, THE ORIGINAL STATEMENTS GIVEN THE FBI BY RUTH AND
DAVID GREENGLASS HAD BEEN SECURED AT A COST OF TWENTY FIVE
THOUSAND DOLLARS AND THAT FOR ANOTHER TWENTY FIVE THOUSAND DOLLARS
THEY WILL HAVE IN THEIR POSSESSION A STATEMENT FOR CONFESSION
OF A PERJURED WITNESS WHOSE NAME BOUNDED TO INFORMANT LIKE QUOTE
PHILIP PERLMAN UNQUOTE, ALMAN REPORTEDLY STATED THAT THE ORIG-
INAL STATEMENT OF DAVID GREENGLASS DID NOT MENTION JULIUS ROSEN-
BERG AND FOR THIS REASON WAS EXTREMELY VALUABLE, ALMAN STATED
THESE STATEMENTS WOULD BE USED AT THE APPROPRIATE TIME AND ARE
EXPECTED TO BE EXTREMELY EFFECTIVE, DAVIDSON STATED THIS INFO
KNOWN ONLY TO ALMAN, INFORMANT AND DAVIDSON AND WARNED INFORMANT
NOT TO REVEAL SAME, INFORMANT UNABLE TO QUESTION DAVIDSON FOR
ADDITIONAL DETAILS BUT ANY INFO VOLUNTEERED WILL BE IMMEDIATELY
REPORTED, EXTREME CARE SHOULD BE USED TO PROTECT INFORMANT.

- Mr. Tolson
- Mr. Ladd
- Mr. Nichols
- Mr. Belmont
- Mr. Clegg
- Mr. Glavin
- Mr. Harbo
- Mr. Rosen
- Mr. Tracy
- Mr. Laughlin
- Mr. Mohr
- Mr. Winterrowd
- Tele. Room
- Mr. Holloman
- Miss Gandy

5:54 PM OK FBI WA WH

NYC OK FBI NYC JSH

RECEIVED

3-25-53

5:56 PM

BS

55-5236-1576

RECORDED

CONFIDENTIAL

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480 NOV 10 1960

Assistant Attorney General
Warren Olney III

March 27, 1953

Director, FBI

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY 2042 PWT/NLS

JULIUS ROSENBERG, et al
ESPIONAGE - R

RECORDED - 46

65-58236-1576

An informant of known reliability has advised that the National Committee to Secure Justice in the Rosenberg Case claims to have obtained, through a professional investigator, the original statements given to the FBI by Ruth and David Greenglass. According to the informant, \$25,000 was paid for these statements. The informant also advised that for another \$25,000 this Committee expects to secure the statement of a perjured witness whose name sounded to the informant like "Philip Perlman." It was pointed out to the informant that the original statements of David Greenglass did not mention Julius Rosenberg and for that reason were extremely valuable; further, that these statements were to be used at the appropriate time and were expected to be extremely effective.

For your information, all statements taken from David and Ruth Greenglass in connection with this case implicated Julius Rosenberg in Soviet espionage. A check of our files reflects that these statements are in the possession of the New York Office of this Bureau.

For your further information, there was no witness at the Rosenberg trial whose name was "Philip Perlman" or who had a similar name.

Inasmuch as the information obtained by our informant does not coincide with the known facts of this case, no further action is deemed warranted in connection with these allegations.

It is requested that the foregoing information not be given any further dissemination in order to protect our informant.

- Tolson
- Ladd
- Nichols
- Belmont
- Clegg
- Glavin
- Harbo
- Rosen
- Tracy
- Laughlin
- Mohr
- Winterrowd
- Tele. Rm.
- Holloman
- Gandy

65-58236

APL:mem:brg

SECURITY INFORMATION

COMM - FBI
MAR 27 1953
MAILED 28

APR 7 1953
APR 21 1953

MAR 27 2 08 PM '53
RECEIVED READING ROOM
FBI

MAR 27 3 08 PM '53
RECEIVED READING ROOM
FBI

Handwritten signatures and initials, including "APL", "JL", and "ST".

AP

cc - Mr. Belmont

Assistant Attorney General
Warren Olney III

March 30, 1953

Director, FBI

JULIUS ROSENBERG - et al
ESPIONAGE - R

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY 3042 PWT/NLC

Reference is made to our memorandum dated March 26, 1953, wherein mention is made of information obtained by Assistant United States Attorney James Kilsheimer of the Southern District of New York from Thomas V. Kelly of the Legal Department, Macy's Department Store, New York City, concerning the efforts of Emanuel Bloch, the attorney for the Rosenbergs, to have Macy's identify a console table as one held by Macy's and that Macy's was submitting an affidavit for Bloch to the effect that it was the type of table sold by Macy's. Our memorandum further advised that this obviously had reference to testimony given by David Greenglass at the Rosenberg trial that the Russians had given to the Rosenbergs, as a present, a console table which had been adapted by Julius Rosenberg for use in photographing documents obtained through espionage activities. Rosenberg, in his testimony during the trial, admitted ownership of a console table but stated he had purchased it at Macy's during a sale in 1944 or 1945.

For your information, at the time of the arrest of Julius Rosenberg, on July 17, 1950, Bureau agents searched his apartment and were unable to locate the console table described by Greenglass among Rosenberg's furnishings.

For your further information, Mr. Kelly was interviewed by Bureau agents on March 18, 1953. Mr. Kelly advised that Bloch telephonically told him he had recently located a console table about which there had been considerable testimony during the trial. Mr. Kelly asked Bloch why he had not produced the table at the trial where it could have been identified by a representative of Macy's. Bloch answered that he did not know the whereabouts of the table at that time and that only recently he had learned one of the Rosenbergs' sisters had taken the table, a vase, and other bric-a-brac from the Rosenberg apartment and had placed it in the "Grandmother's" house.

RECORDED-145

COMM SEC. 6
MAR 30 1953
MAILED 27

MAR 31 1953

65-59028

APR 1 1953

APR 3 1953

UNRECORDED COPY FILED IN 65-59028

Mr. Kelly also advised that Bloch offered to send the table to Macy's for an examination by a Macy's representative or submit photographs of the table for examination. Mr. Kelly told Bloch that the photographs would be satisfactory. Bloch requested that, in the event an identification was made, he would like to have the person making the identification submit an affidavit.

Mr. Kelly further advised that six photographs of a console table submitted by Bloch were examined by Joseph Fontana, a buyer for Macy's, and as a result of this examination, Fontana executed the following affidavit which was being forwarded to Bloch:

"STATE OF NEW YORK)

COUNTY OF NEW YORK) ss

"JOSEPH FONTANA, being duly sworn, deposes and says:

"I reside at 19 Litchfield Road, Port Washington, Long Island, New York. I am presently employed by R. H. Macy & Co., Inc., (Macy's) and have been continuously so employed since 1919. I was the buyer of occasional furniture for Macy's during the years 1944 and 1945.

"On March 14, 1953, there was submitted to me for observation and examination, certain photographs of a console table, depicting various views of the same and parts of the same. I have marked each of these photographs with my signature; there are a total of six photographs and I have marked them 'A' to 'F', both inclusive.

"I make the following statement voluntarily and based upon what I observed from the said photographs. I am assuming the photographs, and the markings as shown on the console table, are genuine;

"(a) The table is a type and style which was handled and sold by Macy's in the furniture and occasional furniture department. It is possible that Macy's handled and sold the particular table shown in these photographs during the years 1944 and 1945.

"(b) The markings on the table are not in sufficient detail for me to state that Macy's handled or sold this particular table, or this type or style of table during any particular year.

"(c) The Table would appear to have been manufactured by the Brandt Manufacturing Company and the markings 'B B 4046-760-F4-1957' on the under side of the table would

indicate the following information;

" 'M M' means Macy's occasional furniture department

" '4046' is the pattern number assigned by Brandt Manufacturing Company to this style in the year 1940

" '760' means the Brandt Manufacturing Company Cabinet Works of Hagerstown, Md.

" '74' is a symbol of a Macy season; '74' was last used as a symbol in the fall season of 1938; however, 'E4' was last used as a symbol in the early part of 1944. A view of photographs 'R' and 'F', which are close-ups show that the seasonal symbol could be read as either '74' or 'E4'. The use of 'E4' would be consistent with the manufacturer's pattern number.

" '19.97' is Macy's retail selling price of \$19.97.

"(d) This console table was one of the lower priced tables sold in Macy's furniture department sometime during or subsequent to the year 1944, if the symbol 'E4' is correct.

"Sworn to before this
16th day of March, 1953"

Mr. Kelly stated he saw no reason for submitting this affidavit to Bloch but that it had been the decision of the officials of Macy's to do as Bloch asked.

Mr. Kelly in having the records of Macy's checked to determine when the store first sold these tables, when it discontinued such sale, and whether it is still selling such tables. He will advise us of the results of this check. Kelly pointed out that if the marking on the table is "74," it would be inconsistent with the seasonal markings of Macy's, as it was argued that the table was bought in 1944 or 1945. Mr. Kelly stated it was Bloch's intention to use the above affidavit as one of the grounds of his application for a new trial on the basis of newly discovered evidence.

Inquiry is being made at the Brandt Manufacturing Company Cabinet Works to ascertain whether this table is recognized as one manufactured by this firm and if so, the date this table was first manufactured and when manufacture of it ceased. Photographs of this table are being exhibited to Ruth and David Greenglass to determine if they recognize it as the table Julius Rosenberg claimed to have received from the Russians.

You will be kept advised immediately of additional developments in this matter.

AIR TEL
FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

NEW YORK, 3/25/53

Transmit the following Teletype message to: BUREAU --- URGENT

JULIUS ROSENBERG, ET AL, ESP-R. REBUAIRTEL, 3/24/53.

TESSIE GREENGLASS ADVISED TODAY THAT SHE WILL NOT VISIT HER DAUGHTER, ETHEL, AGAIN IN SING SING. SHE ALSO ADVISED THAT BERNARD GREENGLASS WILL NOT VISIT EITHER ETHEL OR DAVID GREENGLASS AGAIN. THE QUESTION OF THE STOLEN URANIUM WAS DISCUSSED WITH HER AND SHE WAS ASKED WHAT SHE THOUGHT EMANUEL BLOCH WOULD TRY TO DO. SHE STATED SHE THOUGHT BLOCH WOULD TRY TO GET BERNARD GREENGLASS TO GO TO DAVID AT LEWISBURG AND HAVE HIM TELL BERNARD ABOUT THE CIRCUMSTANCES OF TAKING THE URANIUM FROM LOS ALAMOS. THIS SITUATION WAS DISCUSSED WITH MRS. GREENGLASS AND SHE CONSIDERED TELLING BERNARD NOT TO GO TO SEE DAVID GREENGLASS BUT TO TELL BERNARD TO TELL DAVID ROSENBERG TO SEE GREENGLASS AT LEWISBURG. SHE FINALLY STATED THAT SHE WOULD TELL BERNARD GREENGLASS TO HAVE NOTHING FURTHER TO DO WITH BLOCH OR DAVID ROSENBERG. SHE WAS CERTAIN THAT BERNARD WOULD DO NOTHING THAT WOULD HURT THE POSITION OF DAVID GREENGLASS. SHE SAID SHE WOULD ADVISE HIM STRONGLY TO WIPE HIS HANDS OF BLOCH AND HIS SISTER ETHEL. SHE FURTHER

- ③ - BUREAU (REGISTERED MAIL)
2 - PHILADELPHIA (REGISTERED MAIL)

G I R - 8

JAH:IR (#6)
NY 65-15348

Approved: *[Signature]*

APR 6 1953

Special Agent in Charge

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486 NOV 10 1960

RECORDED-86

MAR 26. 1953

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 12/4/86 BY 3042 PWT/mjs

Per

Per

Mr. Tolson	
Mr. Ladd	
Mr. Nichols	
Mr. Belmont	
Mr. Clegg	
Mr. Glavin	
Mr. Harbo	
Mr. Rosen	
Mr. Tracy	
Mr. Gearty	
Mr. Mohr	
Mr. Winterrowd	
Mr. Holloman	
Miss Gandy	

FEDERAL BUREAU OF INVESTIGATION

JAH:IR
NY 65-15348

UNITED STATES DEPARTMENT OF JUSTICE

- 2 -

NEW YORK, 3/25/53

Transmit the following Teletype message to:

ADVISED THAT SHE WOULD NOTIFY THIS OFFICE IN THE EVENT
THAT SHE HAD ANY FURTHER INFORMATION CONCERNING THE
PLANS OF ETHEL AND JULIUS. THIS IS SUBMITTED FOR INFO.

BOARDMAN.

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

Mr. Tolson _____
 Mr. Ladd _____
 Mr. Nichols _____
 Mr. Belmont _____
 Mr. Clegg _____
 Mr. Glavin _____
 Mr. Harbo _____
 Mr. Rosen _____
 Mr. Tracy _____
 Mr. Gearty _____
 Mr. Mohr _____
 Mr. Winterrowd _____
 Tele. Room _____
 Mr. Holloman _____
 Mr. Sizoo _____
 Miss Gandy _____

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 7/24/86 BY 3042 PWT/MLC

(ROSENBERGS)
 ATOMIC SPIES JULIUS AND ETHEL ROSENBERG MAKE ANOTHER MOVE IN THE
 SUPREME COURT TODAY TO ESCAPE THE ELECTRIC CHAIR.
 COUNSEL FOR THE CONVICTED SPIES PREPARED TO FILE A PETITION FOR
 REVIEW OF THE COURT OF APPEALS DECISION DENYING THEM A NEW TRIAL.
 EXECUTION HAS BEEN STAYED PENDING THE OUTCOME OF THE SUPREME COURT'S
 DECISION ON THE PETITION.
 THE ROSENBERGS' ATTORNEY, EMANUEL M. BLOCH, WAS GIVEN UNTIL TODAY
 BY THE APPEALS COURT TO FILE A PETITION FOR REVIEW.
 THE ROSENBERGS WERE CONVICTED MARCH, 1951, OF PASSING ATOMIC SECRETS
 TO RUSSIA. ORIGINALLY THEY WERE SCHEDULED TO DIE THE WEEK OF JAN. 14,
 THIS YEAR. THE SUPREME COURT TWICE HAS REFUSED TO REVIEW THE CASE.
 PRESIDENT EISENHOWER HAS DENIED THE HUSBAND-AND-WIFE TEAM CLEMENCY.
 3/30--GE947A

165-58236-

NOT RECORDED
 105 APR 27 1953

78 APR 29 1953

WASHINGTON CITY NEWS SERVICE

Office Memorandum • UNITED STATES GOVERNMENT

TO : Director, FBI (65-58236)

FROM : SAC, Philadelphia (65-4350)

DATE: 3/30/53

SUBJECT: JULIUS ROSENBERG, et al
ESPIONAGE - R

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 7/24/86 BY 3042 PWT/NLC

Re New York letter to the Bureau dated 3/23/53.

On 3/25/53, photographs of a console table were exhibited to DAVID GREENGLASS, United States Penitentiary, Lewisburg, Pa., and he stated the table in the photographs resembles and appears to be the same type as the table which he had seen in the apartment of his brother-in-law, but he could not say definitely that it is the same table that he made the clamp for or is the same table ROSENBERG used. He stated he could not remember anything specific about this table that he could use to make a positive identification.

He stated the clamp which he made for the table at the request of his brother-in-law was made of a piece of aluminum about four inches long, one and one-half inches wide and one-eighth inches thick. He said this clamp had a lip on the top about one-eighth inches wide and three sixteenth inches thick. He stated he bored three holes in the wide part of the clamp, the two holes on the end were threaded to take a one-fourth-inch wing bolt with threads 20 per inch and the middle hole was not threaded but bored to take an oversize one-fourth-inch wing bolt. He stated that to use this clamp it would be necessary to bore three holes in the hinged top of the console table at any height desired, the two end ones to hold and center the clamp and the middle one to be used in attaching the camera. He stated he did not put the clamp on the table, nor did he see the table after the clamp was made and given to his brother-in-law. He stated ROSENBERG later told him that he used this clamp and it worked satisfactorily.

He stated that if his brother-in-law used this clamp to support the camera on the table as he said he did, this table would have to contain three holes on the hinged top or show an indication that the holes had been plugged. He stated that the clamp, if screwed on the table tightly, would also leave an impression on the finish of the table.

WGH:faw

REGISTERED MAIL - SPECIAL DELIVERY

APR 1 1953

cc: Baltimore (Enclosures - 6) (REGISTERED MAIL - SPECIAL DELIVERY)
New York (65-15348) (REGISTERED MAIL - SPECIAL DELIVERY)

Let to Assistant Atty Gen
Harrison 4/10/53
APL/awm

UNRECORDED COPY FILED IN 65-58236-1579

PH 65-4350
Director, FBI

3/30/53

The six photographs are being transmitted herewith
to the Baltimore Office.

RUC

Assistant Attorney General
Warren Olney III

April 10, 1953

Director, FBI

~~CONFIDENTIAL~~

JULIUS ROSENBERG, ET AL
ESPIONAGE R

(FBI File 65-59028) - 1579

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY SP42PWT/alc

Reference is made to our memorandum dated March 30, 1953, advising that Emanuel Block, attorney for the Rosenbergs, claimed to have found the console table which was mentioned during the Rosenberg trial by David Greenglass. It will be recalled that David Greenglass testified that according to Julius Rosenberg, this console table was given to the Rosenbergs by the Russians as a gift. Our memorandum advised you that photographs of this console table, which were exhibited by Block to representatives of Macy's Department Store, were obtained by our New York Office.

On March 25, 1953, photographs of the console table were exhibited to David Greenglass at the U. S. Penitentiary, Lewisburg, Pennsylvania. Greenglass stated that the table appeared to be the same type as the table he had seen in the apartment of Julius Rosenberg. However, Greenglass could not say definitely that it is the same table he made the clamp for at the request of Julius Rosenberg. It was his recollection that Rosenberg told him he had used this clamp on the table in connection with photography work he was doing. It was his opinion that Rosenberg had used this clamp to support the camera on the table, this table would have to contain three holes on the hinged top thereof or at least show an indication that the holes made by the clamp had been plugged. He also stated that the clamp, if screwed on the table tightly, would also leave an impression on the finish of the table.

Photographs of this table were also exhibited to Herman B. Koope, President and General Manager of the Grand Cabinet Works, Inc., Hagerstown, Maryland. Koope advised that this table was manufactured by his company between April 15, 1940 and April 30, 1949, when the model

Tolson _____
Ladd _____
Nichols _____
Belmont _____
Clegg _____
Glavin _____
Harbo _____
Rosen _____
Tracy _____
Laughlin _____
Mohr _____
Winterrowd _____
Tele. Rm. _____
Holloman _____
Gandy _____

AFL:amw
cc - 65-59028

NOTE: SEE PAGE TWO

COMM - FBI
APR 13 1953
MAILED 27

53 APR 22 1953

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was discontinued. He pointed out that this table was a new design in 1940, and that no table of this design was made prior to 1940, or subsequent to 1949.

The foregoing is for your information.

NOTE: Greenglass testified at the Rosenberg trial that Rosenberg told him the Russians gave the Rosenbergs as a present the console table which was adapted by Rosenberg for doing microfilming work in espionage. Rosenberg denied the allegation but admitted on the stand he had the console table he bought from Macy's in 1944 or 1945. When Agents arrested Rosenberg on July 17, 1950, they searched his apartment and found no console table. Bloch claims to have found the table recently at the home of a Rosenberg relative and asked Macy's to identify it. Macy representative examined photos of table submitted by Bloch and signed affidavit dated March 16, 1953, that it is similar to type of table which Macy's handled. It is believed Bloch intends to use affidavit as one of grounds for new trial on basis of newly discovered evidence. Department and USA, SDNY, were previously advised of above information. Above letter sets forth results of investigation being conducted by Field concerning this table.

Tolson _____
Ladd _____
Nichols _____
Belmont _____
Clegg _____
Glavin _____
Harbo _____
Rosen _____
Tracy _____
Laughlin _____
Mohr _____
Winterrowd _____
Tele. Rm. _____
Holloman _____
Gandy _____

FEDERAL BUREAU OF INVESTIGATION

SECURITY INFORMATION - CONFIDENTIAL

Form No. 1

THIS CASE ORIGINATED AT

NEW YORK

REPORT MADE AT PHILADELPHIA	DATE WHEN MADE 3/30/53	PERIOD FOR WHICH MADE 3/25/53	REPORT MADE BY WAYNE G. HUNT (FAW)
TITLE JULIUS ROSENBERG, Et Al			CHARACTER OF CASE ESPIONAGE - R

SYNOPSIS OF FACTS:

On 3/25/53, DAVID GREENGLASS, U. S. Penitentiary, Lewisburg, Pa., furnished signed statement in which he admitted taking, in 1944, as a souvenir, a hollow uranium 238 hemisphere, one inch in diameter, with 3/32 inch wall thickness, weighing two or three ounces from the Theta Shop, Manhattan Project, Los Alamos, New Mex., to his barracks where he kept it until 1946, when he shipped it to his home in Albuquerque, New Mex., and later to his home in New York City. Claimed these pieces of uranium 238 formerly used for experimental purposes, but at time he took this piece, the experiment had been discarded and this piece was surplus. Stated many of these pieces used for ash trays at the project and the cost of recovering any value from them at that time would have been prohibitive. Stated after interviewed by Agents of the FBI, in January 1950, he believes he threw this piece of uranium in the East River. Further advised at this interview he did not want to involve himself in any Federal offense as wife was pregnant and he was no longer connected with any illegal activities. Advised in subsequent interviews with Agents he did not mention this incident as it had slipped his mind. Advised to best of recollection he told his wife and brother-in-law, JULIUS ROSENBERG, about incident.

*1 cc/PAB
NOV 1953*

*as in the info
given to Mgt
for review 11/15/53
in Philadelphia*

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

- RUC DATE 7/24/86 BY 3042 PWT/ACV

APPROVED AND FORWARDED: <i>aga</i>	SPECIAL AGENT IN CHARGE	DO NOT WRITE IN THESE SPACES
COPY IN FILE		65-58236-1580
COPIES OF THIS REPORT		RECORDED - 59
⑤ Bureau (65-58236) (REGISTERED MAIL)		INDEXED - 59
2 New York (65-15348)		APR 1 1953
Enclosure (REGISTERED MAIL)		1-112
2 Philadelphia (65-4350)		EST. 112
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438 NOV 1953		

PROCEED WITH THIS CONFIDENTIAL REPORT AND ITS CONTENTS ARE LOANED TO YOU BY THE FBI AND ARE NOT TO BE DISTRIBUTED OUTSIDE OF AGENCY TO WHICH LOANED.

SECURITY INFORMATION - CONFIDENTIAL

DETAILS: At Lewisburg, Pa.

DAVID GREENGLASS, Inmate, United States Penitentiary, was interviewed on March 25, 1953, and he furnished the following signed statement:

"Lewisburg, Pa.

March 25, 1953

"I, DAVID GREENGLASS, make the following signed statement of my own free will to WAYNE G. HUNT who has identified himself to me as a Special Agent of the Federal Bureau of Investigation. I know I do not have to make this statement and know it can be used in a Court of Law. I know I have a right to an attorney. No threats or promises have been made to me.

"Sometime late in 1944 while employed as a Machinist-Technician in the Theta Shop, Manhattan Project, Los Alamos, New Mexico, I took a hollow Uranium 238 hemisphere 1" in diameter with 3/32" wall thickness weighing 2 or 3 ounces. These hemispheres were formerly used for experimental purposes but at the time I took this one piece, the experiment had been discarded and this piece was surplus. Many of these pieces were used as ash trays in the various shops and laboratories. The cost of recovering any value from these pieces at that time would have been prohibitive. I took this piece of Uranium 238 as a souvenir to my barracks where I kept it until 1946 when I shipped it with my clothing in a barrack bag to my home in Albuquerque. Later in the same year I shipped it the same way to my home in New York City. After I was interviewed by FBI Agents I believe I threw this piece of Uranium in the East River. This was sometime in January, 1950. At this interview I did not want to involve myself in any Federal offense as my wife was pregnant and I no longer was involved in any illegal activities. Since that time this incident has slipped my mind and this is the reason I did not mention it in subsequent interviews which were so far afield from this matter that it was not recalled by me.

SECURITY INFORMATION - CONFIDENTIAL

PH 65-4350

"To the best of my recollection I told my wife about this incident and my brother-in-law, JULIUS ROSENBERG.

"I have read this statement, consisting of this page and two others, and say the contents are true to the best of my knowledge.

/s/ DAVID GREENGLASS

Witness: WAYNE G. HUNT,
Special Agent, FBI,
500 Widener Building,
Philadelphia, Pa."

GREENGLASS further advised that he has no knowledge of anyone else taking uranium from the Los Alamos Project.

ENCLOSURE TO NEW YORK: Signed statement of DAVID GREENGLASS.

- RUC -

SECURITY INFORMATION - CONFIDENTIAL

PH 65-4350

ADMINISTRATIVE PAGE

REFERENCE: Bureau air-tel dated 3/24/53.

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI (65-58236)

DATE: 4/4/53

FROM : *my* ~~SA~~ SAC, BALTIMORE (65-1763)*pink* SUBJECT: JULIUS ROSENBERG, et al
ESPIONAGE - R

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 7/24/86 BY 5042 PWT/PLC

Re Butel 3/26/53; New York letter 3/23/53; and Baltimore teletype to Bureau, Philadelphia, and New York dated 4/4/53.

Mr. HERMAN B. HOOPS, President and General Manager of the Brandt Cabinet Works, Inc., Hagerstown, Md., was interviewed on April 2, 1953 and exhibited the photographs of the console table which were received from Philadelphia.

Mr. HOOPS recognized in this photograph the table as one manufactured by his company during the period 1940 through 1949. Mr. HOOPS explained that the letters NW in the photograph referred to the department, the numbers 4046 referred to the pattern, and the number 760 referred to Macys. The letters and numbers FL or EL 1997 was in all probability a code used by Macys, according to Mr. HOOPS.

Mr. HOOPS referred to other of his company's records which reflected that this model table was of a new design, the manufacture of which began on April 15, 1940. No table of this design was made prior to that date. The model was discontinued on April 22, 1949 when the last order was filled and none have been made since that time, according to Mr. HOOPS. He explained that the first two numbers of the serial number on the table represented the year it was first made, thus 4046 was first made in 1940.

The photographs referred to herein are being returned to the New York Office with copies of this letter. RUC

ELH:je

REGISTERED MAIL - SPECIAL DELIVERY

CC: 2-New York (65-15348) (Enc.-6) (REGIS MAIL -SD)
2-Philadelphia (65-4350) (REGIS MAIL-SD)

RECORDED - 23

165-58236-1581

APR 6 1953

ESP. DIV.

22-APR-53

AIR-TEL

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

ALL INFORMATION CONTAINED
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NEW YORK, NEW YORK, 3/26/53.

DATE 7/24/86 BY 3042 PWT/jls

Mr. Tolson _____
Mr. Ladd _____
Mr. Nichols _____
Mr. Rosen _____
Mr. Clegg _____
Mr. Glavin _____
Mr. Harbo _____
Mr. Rosen _____
Mr. Tracy _____
Mr. Gandy _____
Mr. Mohr _____
Mr. Winterrowd _____
Tele. Room _____
Mr. Holloman _____

Transmit the following Teletype message to: BUREAU

JULIUS ROSENBERG, ETAL. ESPIONAGE-R. [REDACTED]

[REDACTED] CONFIDENTIALLY ADVISED TODAY THAT JULIUS AND ETHEL ROSENBERG HAD A VISIT THIS A.M. JULIUS TOLD ETHEL THAT HE HAS A FRIEND JACK EGHART (PHONETIC) WHO WORKED ON THE A BOMB. JULIUS KNEW EGHART BEFORE HE WAS ARRESTED. HE TOLD ETHEL HE WAS WONDERING WHETHER HE SHOULD MENTION TO EMANUEL BLOCH THAT HE KNEW EGHART AND THAT IF HE WANTED TO FIND OUT ANYTHING ABOUT THE A BOMB HE COULD HAVE ASKED EGHART INSTEAD OF DAVID GREENGLASS. THIS IS THE ONLY INFORMATION AVAILABLE AT THIS TIME CONCERNING THIS CONVERSATION. JULIUS ALSO TOLD ETHEL THAT HER BROTHER, BERNARD GREENGLASS WAS GOING TO GET AN ORDER FROM THE COURT SO THAT HE COULD VISIT JULIUS. IT IS JULIUS' PLAN TO HAVE BERNARD GREENGLASS SUBMIT AFFIDAVITS TO BLOCH REGARDING CERTAIN PHASES OF THE CASE AND THE WITNESSES WHO PERJURED THEMSELVES. RUTH GREENGLASS ADVISED TODAY THAT SHE HAS BEEN IN CONTACT WITH BERNARD AND HE HAS TOLD HER THAT HE SAW BLOCH THIS PAST WEEK AND BLOCH TOLD HIM THAT JULIUS WANTS TO SEE HIM. BERNARD TOLD RUTH THAT HE HAS NOT MADE UP HIS MIND WHETHER

b7c

an

Let to assist atty Gen. Hansen always 4/2/53
APL/an

3 - Bureau (REGISTERED MAIL)
Philadelphia (REGISTERED MAIL)

EX - 107

MAR 30 1953

RECORDED - 41

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JAH:AMM(#6)

65-15348

Approved: _____

Special Agent in Charge

Sent _____

M

Per _____

PAGE TWO

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

HE WILL GO TO SEE JULIUS. HE TOLD RUTH HE IS ARGUING WITH HIMSELF THAT THERE WOULD BE NO HARM TO SEE JULIUS SINCE HE HAS NOT SEEN HIM IN MORE THAN TWO YEARS.. ON THE OTHER HAND HE TELLS RUTH THAT HE DOES NOT WANT TO BE INVOLVED IN THIS CASE ANY FURTHER SINCE HE HAS HIS OWN AFFAIRS TO WORRY ABOUT. RUTH STATES THAT BERNARD VACILLATES FROM DAY TO DAY. NEW YORK HAS CHECKED ITS INDICES ON JACK EGHART AND ALL POSSIBLE COMBINATIONS AND HAS FOUND NO CASE WITH A REFERENCE TO THE INSTANT CASE OR ANY ASSOCIATED CASES. IT IS BROUGHT TO THE BUREAU'S ATTENTION THAT IF JULIUS WAS REFERRING TO EGHART AS A PERSON WHO WORKED ON THE A BOMB DURING THE TIME THAT DAVID WAS LOCATED AT LOS ALAMOS THIS PERIOD WOULD HAVE BEEN DURING 1944 AND 1945. ACCORDINGLY IT IS QUITE LIKELY THAT THIS INDIVIDUAL WOULD NOT TURN UP IN THE FILES OF THE NYO EITHER AS AN AEAA OR LGE CASE. IF SUCH AN INDIVIDUAL EXISTS, IT IS MORE THAN LIKELY THAT THE MANHATTAN ENGINEERING DISTRICT WOULD HAVE A RECORD OF HIS NAME. PHILADELPHIA WILL INTERVIEW DAVID GREENGLASS AT LEWISBERG AND DETERMINE WHETHER OR NOT HE EVER HEARD OF A FRIEND OF JULIUS' WITH THE NAME OF JACK EGHART. NEW YORK WILL INTERVIEW RUTH GREENGLASS FOR THE SAME PURPOSE.

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

PAGE THREE

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

*Dislike
checking
matters
met*

IT IS LEFT TO THE BUREAU'S DISCRETION TO DETERMINE WHETHER
OR NOT A SEARCH OF THE RECORDS OF THE MED IS WARRANTED AT
THIS TIME. PHILADELPHIA IS CAUTIONED TO PROTECT THE
SOURCE OF THE INFORMATION CONCERNING EGHART AND NOT TO
REPORT THE SAME TO ANY OUTSIDE SOURCE. BUREAU WILL BE
ADVISED OF RESULTS OF INTERVIEW WITH RUTH GREENGLASS.

BOARDMAN

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

Assistant Attorney General
Warren Olney III

April 2, 1953

Director, FBI

CONFIDENTIAL

JULIUS ROSENBERG, ET AL
ESPIONAGE - R
(FBI File 65-58236)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY 3042 PWT/WC

RECORDED - 107

confidentially advised that Julius and Ethel Rosenberg had a visit on March 26, 1953. Julius told Ethel that he has a friend, Jack Eghart, (phonetic) who worked on the Atom Bomb, and that he knew Eghart (phonetic) before he was arrested. Julius was considering advising his attorney, Emanuel Bloch, that he knew Eghart, (phonetic) and that if he wanted to find out anything about the Atom Bomb, he could have asked Eghart (phonetic) instead of David Greenglass.

Julius also advised Ethel that her brother, Bernard Greenglass, was going to get a Court order so that he could visit Julius. It was Julius' plan to have Bernard Greenglass submit affidavits to Bloch for use in the appeal.

Ruth Greenglass has advised our New York Office that she has been in contact with Bernard Greenglass, who told her that he saw Bloch, and Bloch told him that Julius wanted to see him. Bernard Greenglass advised Ruth that he has not made up his mind whether to see Julius. He believes there would be no harm in seeing Julius since he has not seen him in more than two years, but he has not made up his mind whether to go because he does not want to be involved in this case any further, and he has his own affairs to worry about.

A check of Bureau files fails to reflect any information identifiable with Jack Eghart (phonetic). However, efforts are being made to identify this individual, and you will be advised of any additional information developed in this matter.

Tolson _____
Ladd _____
Nichols _____
Belmont _____
Clegg _____
Glavin _____
Harbo _____
Rosen _____
Tracy _____
Laughlin _____
Mohr _____
Winterrowd _____
Tele. Rm. _____
Holloman _____
Gandy _____

APL:awn
NOTE:

Supervisor Dissly is checking with AEC in an effort to identify Eghart (phonetic).

COMM - FBI

APR 3 1953

MAILED 31

62 APR 10 1953

RECEIVED
FBI
REC'D CIVIL

Mr. Tolson	
Mr. Boardman	
Mr. Nichols	
Mr. Belmont	
Mr. Ladd	
Mr. Clegg	
Mr. Glavin	
Mr. Harbo	
Mr. Rosen	
Mr. Tracy	
Mr. Gearty	
Mr. Mohr	
Mr. Winterrowd	
Tele. Room	
Mr. Holloman	
Mr. Nease	
Miss Gandy	

AIR-TEL
FBI WASH FIELD
DIRECTOR

JULIUS ROSENBERG, ET AL. MR. LIPPERT OF DEPT. OF JUSTICE OF
SUPREME COURT ADVISED TELEPHONICALLY THAT ATTORNEY FOR THE ROSENBERGS
HAD FILED APPEAL WITH THE SUPREME COURT. EFFORTS BEING MADE TO
OBTAIN COPY OF THE PETITION AS SOON AS POSSIBLE.

1000

Handwritten: 4/9/53
EE

DEW/mml
65-5521
BUFILE 65-58236

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 10/10/01 BY 60322/UC

AIR-TEL

CIP

REC'D NETWORK

RECORDED-55

65-58036-1583

APR 2 1953

62 APR 10 1953

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 7/24/86 BY 3042 PWT/luc NEW YORK, 4/3/53

Transmit the following Teletype message to: BUREAU

JULIUS ROSENBERG, ET AL, ESPIONAGE - R. REBULET 3/23/53

US TREASURY DEPT., BUREAU OF PUBLIC DEBT, CHICAGO, ADVISED THAT DURING PERIOD JUNE, 1943, AND MAY, 1945, 20 US SAVINGS BONDS WERE PURCHASED IN NAME OF DAVID ENGELSON OR MARY ENGELSON, 40 MONROE ST., NYC, AT COST OF \$412.50. THESE BONDS WERE

PURCHASED AT USPO STATION B, CORN EXCHANGE BANK, MANUFACTURERS TRUST CO., AND INTERNATIONAL PROJECTOR CORP., ALL NYC. ALSO

IN OCTOBER, AND NOVEMBER, 1942, TWO \$25.00 BONDS, NUMBER Q78,767,348E AND Q95,703,463E WERE PURCHASED AT THE ORANGE

FIRST NATIONAL BANK, ORANGE, NJ, IN THE NAME OF MRS. MARY ENGELSON OR RICHARD P. ENGELSON, 40 MONROE ST., NYC. TO DATE

~~NONE~~ KNOWN OF THESE BONDS HAVE BEEN REDEEMED. FOR INFO NK BUREAU HAS REQUESTED AN INQUIRY INTO THE COMPLETE FINANCIAL BACKGROUND OF DAVID ENGELSON TO TRACE SOURCE OF HIS FUNDS. NK REQUESTED TO EXAMINE ORIGINAL APPLICATIONS FOR SAVINGS BONDS PURCHASED AT THE ORANGE NJ BANK TO DETERMINE METHOD OF PAYMENT, PURCHASER'S NAME AND SO FORTH. ALSO EXAMINE ANY ACCOUNT DAVID OR MARY ENGELSON, AKA ENGELS MAY OR MAY HAVE MAINTAINED AT THIS BANK.

ENGELSON IS AFFILIATED WITH THE SNAP BAND CO., AND GOOSENECK

③ - BUREAU (65-58236) (REGULAR)
2 - NEWARK (REGULAR)

RJC:POB (#6)
65-15348

RECORDED-50

APR 16 1953

Sent _____ M Per _____

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436 NOV 10 1960

Mr. Tolson	_____
Mr. Ladd	_____
Mr. Nichols	_____
Mr. Clegg	_____
Mr. Glavin	_____
Mr. Harbo	_____
Mr. Rosen	_____
Mr. Tracy	_____
Mr. G. A. G.	_____
Mr. Mohr	_____
Mr. Winterrowd	_____
Mr. Egan	_____
Mr. Holloman	_____
Mr. Sane	_____
Mr. Gandy	_____

B. W. B. J. A. R.

C

Shutcliffe

65-58236-15848

62-10-1953

Special Agent in Charge

FEDERAL BUREAU OF INVESTIGATION

BJC:POB (#6)
65-15348

UNITED STATES DEPARTMENT OF JUSTICE

PAGE TWO

Transmit the following Teletype message to:

CHAIN CO., NYC. AUS PROBATION OFFICER RALPH NORTON WILL
BE CONTACTED TO DETERMINE NATURE OF ANY FINANCIAL STATEMENTS
FILED WITH HIM BY ENGELSON; IT BEING NOTED THAT ENGELSON
AS PART OF HIS SENTENCE WAS PLACED ON PROBATION FOR TWO
YEARS AND FINED ONE THOUSAND DOLLARS, OF WHICH HE HAS PAID
ONE HUNDRED DOLLARS TO DATE.

BOARDMAN

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

AIR-TEL
FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE
NEW YORK, 4/3/53

FD-36
Mr. Tolson _____
Mr. Ladd _____
Mr. Nichols _____
Mr. Belmont ✓
Mr. Clegg _____
Mr. Glavin _____
Mr. Harbo _____
Mr. Rosen _____
Mr. Tracy _____
Mr. Gearty _____
Mr. Mohr _____
Mr. Winterrowd _____
Tele. Room _____
Mr. Holloman _____
Mr. Sizoo _____
Miss Gandy _____
WAB

Transmit the following Teletype message to: BUREAU, WASHINGTON FIELD
JULIUS ROSENBERG, ET AL; ESP-R. REBULET TO NY, 3/23 LAST
REQUESTING AN INQUIRY INTO THE COMPLETE FINANCIAL BACK-
GROUND OF DAVID ENGELSON, AKA: DAVID ENGELS IN ORDER TO
TRACE THE SOURCE OF HIS FUNDS. RECORDS OF HANDY AND HARMAN
GOLD SUPPLIERS, 82 FULTON STREET, NYC, COVERING PERIOD
1/1/50 TO AUGUST 1952 SHOW THAT ENGELSON DOING BUSINESS AS
THE SNAP BAND COMPANY, NYC, HAD MADE ALMOST DAILY PURCHASES
OF GOLD FROM THIS FIRM. AT THE OUTSET, HIS GOLD PURCHASES
RANGED BETWEEN \$1,000 AND \$2,000. HOWEVER, THE AMOUNT
CONTINUED TO RISE SO THAT BEGINNING IN SEPTEMBER 1951,
ENGELSON WAS PURCHASING NEARLY \$8,000 WORTH OF GOLD DAILY.
DURING THIS EXAMINATION AT HANDY AND HARMAN, IT WAS NOTED
THAT FOR EACH PURCHASE THE PURCHASER SUBMITS "END USE
CERTIFICATE" FORM TG-29 ISSUED BY THE OFFICE OF THE DIRECTOR
OF THE MINT, TREASURY DEPT., WASHINGTON, D.C. WFO REQUESTED
TO CONTACT THE OFFICE OF THE MINT TO DETERMINE IF THE "END
USE CERTIFICATES" ARE SUITABLY ARRANGED FOR EXAMINATION.

- ③ - BUREAU (65-58236) (REGULAR MAIL)
2 - WASHINGTON FIELD (AIR MAIL)

RECORDED - 93

65-58236-1385

30 APR 6 1953

REC:MEM (#6)
65-15348

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63 APR 10 1953

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Approved: *LVB*
Special Agent in Charge

Sent _____ M Per _____

486 NOV 10 1960

AIR-TEL

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

- 2 -

Transmit the following Teletype message to:

IN THE EVENT THEY ARE AVAILABLE, WFO REQUESTED TO EXAMINE SAME IN ORDER TO IDENTIFY ANY OTHER GOLD PURCHASES THAT MAY HAVE BEEN MADE BY DAVID ENGELSON OTHER THAN THOSE MENTIONED ABOVE. IN THE EVENT OTHER PURCHASES ARE LOCATED, WFO REQUESTED TO IDENTIFY SUPPLIER, DATE AND COST OF EACH PURCHASE. FOR INFO OF WFO, ENGELSON HAS BEEN OPERATING THE SNAP BAND COMPANY SINCE 1946 AND THE GOOSENECK CHAIN COMPANY FOR THE PAST THREE YEARS. IN AUGUST 1952 HE WAS ARRESTED BY U.S. SECRET SERVICE FOR GOLD SMUGGLING. PRIOR TO JULIUS ROSENBERG'S ARREST IN JULY 1950, ENGELSON IS BELIEVED TO HAVE RECEIVED \$7,000 FROM HIM. ENGELSON HAS APPEARED BEFORE USFGJ AND REFUSED TO COOPERATE AND FURNISH ANY INFO CONCERNING ROSENBERG ESPIONAGE NETWORK. ENGELSON HELD TREASURY LICENSE NY9R141863. HIS WIFE IS MARY ENGELSON AND THEY RESIDE AT 40 MONROE STREET, NYC.

BOARDMAN

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

XXXXXX
XXXXXX
XXXXXXFEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

_____ Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- ☐ Deleted under exemption(s) _____ with no segregable material available for release to you.
- ☐ Information pertained only to a third party with no reference to you or the subject of your request.
- ☐ Information pertained only to a third party. Your name is listed in the title only.
- ☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

_____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

2 Page(s) withheld for the following reason(s):

DISPOSITION HANDLED BY DEPT. OF STATE

☒ For your information: FOREIGN SERVICE DISPATCH
AmEmbassy, Montevideo to Dept of State MARCH 20, 1953

☒ The following number is to be used for reference regarding these pages:

65-58236-1586

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X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
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FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

APR 2 1953

TELETYPE

Mr. Tolson	✓
Mr. Ladd	✓
Mr. Nichols	✓
Mr. Belmont	✓
Mr. Clegg	✓
Mr. Glavin	✓
Mr. Harbo	✓
Mr. Rosen	✓
Mr. Tracy	✓
Mr. Gearty	✓
Mr. Mohr	✓
Mr. Winterrowd	✓
Tele. Room	✓
Mr. Holloman	✓
Mr. Sizoo	✓
Miss Gandy	✓

WASH FROM NEW YORK 10

2

343 P

DIRECTOR

URGENT

G.I.R. 9

JULIUS ROSENBERG, ET AL, ESP R. AUSA KILSHEIMER ADVISED TODAY THAT THE GOVERNMENT-S REPLY BRIEF AND ROSENBERG-S BRIEF WILL BE SUBMITTED TO THE SUPREME COURT ON THE THIRD NEXT. THIS CASE HAS BEEN PUT ON THE SUPREME COURT CONFERENCE CALENDAR FOR APRIL ELEVEN NEXT, AND THERE IS A POSSIBILITY THAT A DECISION IN THIS CASE WILL BE HANDED DOWN ON THE THIRTEENTH NEXT. KILSHEIMER ADVISED THAT MORTON SOBELL DID NOT FILE HIS APPEAL IN THE SUPREME COURT. THE BUREAU IS ADVISED THAT SOBELL HAD ASKED FOR A REHEARING IN THE CIRCUIT COURT AND THE MANDATE DENYING THIS REHEARING WAS HANDED DOWN ON JAN NINETEEN, THUS HIS TIME TO APPEAL TO THE SUPREME COURT RUNS FROM THE NINETEENTH OF JANUARY RATHER THAN DEC THIRTYFIRST, AS WAS THE CASE OF ROSENBERG. THIS IS SUBMITTED FOR BUREAU-S INFO.

RECORDED-45

65-58236-1587

BOARDMAN

APR 8 1953

END

NY R 10 WA CW

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DATE 7/24/80 BY 3042 pwt/lrs

CC: MR. BELMONT
DOM. INTEL. DIVISION

79 APR 14 1953

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

AIR-TEL

Mr. Nichols
Mr. Egan
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Gearty
Mr. Mohr
Mr. Winterrowd
Mr. Holloman
Mr. Sizoo
Miss Gandy

Transmit the following Teletype message to: BUREAU (REGISTERED MAIL)
NEW YORK (REGISTERED MAIL) (65-15348)

FBI, PH

3/31/53

JULIUS ROSENBERG, ETAL, ESPIONAGE - R. REAIRTEL FROM NY 3/26/53. DAVID GREENGLASS
U.S.P., LEWISBURG, PA., ADVISED ON 3/31/53 THAT HE CANNOT DEFINITELY RECALL EVER
HEARING OF A FRIEND OF JULIUS ROSENBERG BY THE NAME OF JACK EGHART, BUT STATED THAT
HE RECALLS A FRIEND OF JULIUS WHO WORKED AS A CONSTRUCTION FOREMAN AT THE OAKRIDGE
PROJECT DURING THE WAR, WHOSE NAME HE BELIEVES WAS SOMEWHAT SIMILAR TO EGHART.
HE STATED THAT THIS INDIVIDUAL, IN 1946 OR 1947, RESIDED IN AN APARTMENT NEXT TO
THE ROSENBERGS AT KNICKERBOCKER VILLAGE, AND WAS INTRODUCED TO HIM BY JULIUS AT
THE PITT MACHINE COMPANY, 300 EAST SECOND ST., NYC, IN 1946. AT THIS TIME, THIS
INDIVIDUAL WAS UNEMPLOYED AND JULIUS TOLD GREENGLASS TO GIVE HIM MACHINIST'S TRAINING,
WHICH HE DID ON SATURDAYS FOR A FEW MONTHS OR UNTIL THIS INDIVIDUAL OBTAINED EMPLOYMENT
EITHER AT THE LILLIAN WALD OR STUYVESANTOWN HOUSING PROJECTS, IN NYC. HE DESCRIBED
THIS INDIVIDUAL IN 1946 AS ABOUT 43 YEARS OF AGE, 5'8" OR 9", 180 TO 190 POUNDS, LIGHT
HAIR, TURNING WHITE, BROAD FACE, FLORID COMPLEXION, HAD WIFE AND ONE CHILD AND WAS
OF GERMAN EXTRACTION. STATED HE HAS NO KNOWLEDGE THIS PERSON EVER FURNISHED
INFORMATION TO JULIUS. IF PHOTO OF EGHART CAN BE LOCATED, SUGGEST IT BE FORWARDED
PH FOR EXHIBITION TO GREENGLASS.

G.I.R.S

WGH/ejs
65-4350

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ABBATICCHIO

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65-58236-4588
30 APR 1 1953

Approved: [Signature]
Special Agent in Charge

Sent _____ M Per _____

APR 15 1953

ENCLO. ATTACHED

4-11-53

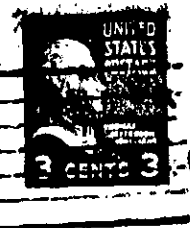
Julius Rosenberg

3/21/52.

DEAR MR. HOOVER: of sponsoring this.
I AM SURE THE HOLY FATHER HAD NO INTENTION
I AM NOT OPPOSED TO THE DEATH PENALTY FOR TRAITORS
I HAVE NEVER HEARD OF ANY OF THE PERSONS
WHOSE SIGNATURES ARE ENCLOSED PETITION,
MY NAME MUST HAVE BEEN TAKEN FROM SOME
ATTORNEY'S LIST.

MARY H. ZIMMERMAN.

Mary H. Zimmerman
1700 Lincoln Parkside Bldg
Detroit, Mich



RECORDED - 114
INDEXED - 114

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detrit
7-1-53
myon

Longardner

5-11-54

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DATE 7/24/86 BY 3042 PWT/mc

30 APR 24 1952

65-58236-1589

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141

I wish to add my name to the millions of others, including His Holiness Pope Pius XII, 1,500 Clergymen, Dr. Albert Einstein, and Dr. Harold C. Urey in the appeal for Presidential clemency for Julius and Ethel Rosenberg. I urge upon President Eisenhower that he reconsider his decision and commute the death sentence.

ALL INFORMATION CONTAINED

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DATE 7/24/80 BY 3042 PWT/KLC

Name

Address

City

Title

(for identification only)

ALL INFORMATION CONTAINED
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DATE 9/24/82 BY 3042 PWT/NK

**NATIONAL COMMITTEE FOR CLEMENCY
FOR THE ROSENBERGS
1050 SIXTH AVENUE
NEW YORK, N. Y.**

Dear Citizen of Michigan:

On February 11, 1953 President Eisenhower refused Presidential clemency for Julius and Ethel Rosenberg, convicted in 1951 of conspiracy to commit espionage and given the death penalty, an unprecedented sentence for this crime.

With the appeal for clemency from His Holiness, Pope Pius XII, we believe that many additional persons will want to join in asking President Eisenhower for reconsideration. The enclosed material indicates the type and scope of the opposition to the death penalty which has already been expressed.

We, like the 1,500 Clergymen who petitioned President Truman, " . . . are not partisans. Our plea does not hang on the decision of the Rosenbergs' guilt or innocence, nor the degree of their wrongdoing. We ask you in the spirit of the love which casts out fear to mitigate the punishment of such terrible finality, and which, for the offense, is unique in our history." (from a letter to President Truman, signed by 1,500 Clergymen, New York Times, January 14, 1953).

We are deeply concerned with the incalculable effect that the death penalty will have upon our relations with the governments and peoples of other lands. We note with alarm that President Eisenhower's decision appears to ignore protests against the death penalty and appeals for clemency which have come from officials and prominent citizens of more than forty nations.

The granting of clemency could not prejudice the United States of America in any way, the execution likely would. The interests of our country would be served by the granting of clemency.

We believe that this is best expressed by the following statement of Charles E. Raven, Professor Emeritus, Cambridge University, England, Chaplain to HM, the Queen:

"As one who has spent much time during the past twenty-five years in the United States and has a deep concern for Anglo-American friendship, I cannot but deplore the death sentence upon the Rosenbergs both in itself and from its inevitable effect upon British and world opinion. . . . this savage verdict underlines the conviction that America, instead of leading the world to a more righteous and liberal way of life, is becoming so hysterical in its dread of Communism as to betray the very principles upon which its Constitution was founded and which its past history has always respected. The sentence of death, whatever the merits of the case, is a tragic event for all lovers of the Republic."

4

Dr. Harold Urey, Nobel Prize winning nuclear physicist, cast doubt on the guilt of the Rosenbergs after having carefully read the entire trial transcript. (See enclosed).

While there are additional legal steps to be taken by the Attorneys for the Rosenbergs, ultimately and finally the decision of whether or not the death penalty will be consummated rests with the people, who time and again in the democratic history of our nation have changed the course of events through the exercise of their right of petition.

We are, therefore, asking that you join with us and persons such as His Holiness, Pope Pius XII, Doctors Einstein and Urey, in an appeal to President Eisenhower for reconsideration of Presidential clemency.

Enclosed is a card which we hope you will sign and return to us for forwarding to the President at the earliest possible date.

Sincerely yours,

Committee for Clemency in the
Rosenberg Case

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY 3042 pwt/nlc

December 19, 1952

Re: THE ROSENBERG CASE

Dear Colleague:

Knowing of your intense interest in the sound administration of justice and the zealous guarding of human rights, we should like to know whether we could depend upon you to join other leading Illinois lawyers in a brief petition to President Truman for executive clemency for Julius Rosenberg and Ethel Rosenberg, who have been sentenced to death by the United States District Court, for conspiracy to violate the federal espionage act. After an examination of the entire record, we entertain the gravest doubt as to the Rosenbergs' guilt. The reasons therefor are as follows:

- (1) Their conviction is based almost entirely upon the testimony of 3 alleged self-confessed accomplices, only one of whom, Greenglass, brother of Mrs. Rosenberg, testified to any material overt acts, the other two corroborating him only as to relatively insignificant facts;
- (2) The courts have frequently pointed out the danger of convicting on the testimony of self-confessed accomplices, since they have every incentive to aid the prosecution in order to obtain clemency for themselves, not having yet been sentenced; in the Rosenberg case, the confessed spy, Greenglass, received a reward for his testimony in the form of a 15-year sentence, and the other two accomplices have not even been indicted;
- (3) Greenglass had had personal and financial difficulties with Rosenberg and was personally antagonistic to him;
- (4) Greenglass' only testimony as to the so-called atomic secrets was that he had memorized the details of these tremendously involved designs by looking over the shoulders of the scientists working over them at Los Alamos and by listening to their discussions and that he had later drafted those designs at home from memory, and had sold them to the Rosenbergs, who had never been at the plant; he kept no copy of the designs but several years later, just prior to the trial, drafted alleged replicas of them, again from memory; surely feats of the most prodigious scientific skill and memory, utterly incomprehensible in a man with but a high-school education, who had failed every one of the 8 post-high school technical courses which he had taken and whose only vocation was that of a machinist;
- (5) The testimony of the accomplices was uncorroborated by a single witness, except in insignificant details; it was uncorroborated by any documents, records, or any physical evidence; the F.B.I. could uncover nothing of consequence;
- (6) Greenglass' testimony is obviously most incredible, even though, as stated by the Circuit Court of Appeals, the "conviction could not stand" without it;
- (7) The jury arrived at its verdict in the light of the atmosphere generated by the charge of the prosecution that the defendants were Communists, the only evidence of which was (a) testimony that they sometimes read the Daily Worker, (b) a can found in their possession used for the collection of funds for Spanish refugee

children, and (c) the signature of Mrs. Rosenberg upon the nomination petition of a successful candidate of the Communist party for the New York Council.

The Circuit Court of Appeals did not consider the sufficiency of the evidence to justify the conviction. That Court said that, "where trial is by jury, this court is not allowed to consider the credibility of witnesses or the reliability of testimony."

In view of the foregoing, it seems almost inhuman, and certainly unworthy of the finest traditions of American justice, that a death penalty should be inflicted:

- (1) If Greenglass should recant his testimony or the future should establish its falsity, a great and irreparable injustice would have been done;
- (2) The infliction of a death penalty in a civil court for espionage is without precedent;
- (3) The infliction of a death penalty upon Mrs. Rosenberg, the mother of two small children, is incomprehensible, as contrasted with the 10-year sentences of Axis Sally and Tokyo Rose, or with the 5 to 15-year sentences imposed upon the 4 men who sold vital air force secrets to Germany in the fall of 1941;
- (4) The leader of the very conspiracy charged to the defendants, Dr. Klaus Fuchs, the British scientist and Russian spy working at Los Alamos, was sentenced to 14 years by the English court in which he was convicted of more clearly established overt acts than those charged against the Rosenbergs.

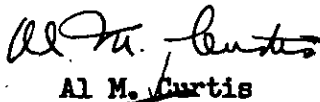
The commutation of the sentence is dictated by each of the foregoing considerations, by the deep-seated desire of the courts and of executive officers and of Americans in general to avoid injustice, by the traditional concern of the bar that even-handed justice be meted out to all accused, however unpalatable their beliefs or personalities, by the understandable desire that American justice should continue to hold the respect of the world.

Will you join us in our effort by authorizing us to sign your name to a brief and respectful letter to President Truman asking for executive clemency? Please realize that time is short.

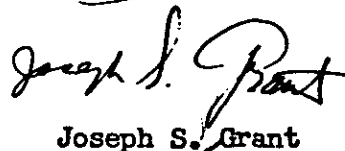
Very truly yours,



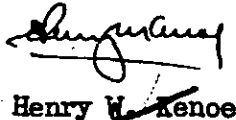
Stephen Love



Al M. Curtis



Joseph S. Grant



Henry W. Kenoe

Mr. Stephen Love has been Professor of Law at Northwestern University since 1925. Appointed by the Illinois Supreme Court, Mr. Love is Chairman of the Committee on Character and Fitness. He is Chairman of the Committee on Grievances for both the Illinois and Chicago Bar Associations, and is a member of the Chicago Board of Managers. The other signers are also prominent Chicago attorneys.

RECORDED - 114
INDEXED

65-58236-115 1959

Miss Mary H. Zimmerman
125 Kenwood Road
Grosse Pointe Farms, Michigan

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY 3042 PWT/NIC

Dear Miss Zimmerman:

Your letter postmarked March 23, 1959, together with the enclosures, has been received and your interest in making this material available to us is indeed appreciated.

In the event you receive additional data which you believe to be of interest to this Bureau, you may desire to communicate directly with the Special Agent in Charge of our Detroit Office located at 913 Federal Building, Detroit 26, Michigan.

Sincerely yours,

John Edgar Hoover
Director

2 cc - New York (with copy of incoming)
2 cc - Detroit (with copy of incoming)

Correspondent enclosed the following items:

- (1) Letter dated December 19, 1952, addressed "Dear Colleague" regarding the Rosenberg case, Michigan.
- (2) Letter, undated, addressed "Dear Citizens of Michigan."
- (3) Post card urging the writer to have President Eisenhower commute the death sentence of the Rosenbergs.
- (4) Return envelope addressed to "National Committee for Clemency for the Rosenbergs, 1050 Sixth Avenue, New York, N. Y."

The above items are being retained in Bureau files.

MAILED 11
APR 2 1953
COMM-FW

(Please see next page)

Tolson
Ladd
Nichols
Belmont
Clegg
Glavin
Harbo
Rosen
Tracy
Laughlin
Mohr
Winterrowd
Tele. Rm.
Holloman
Gandy

NJM:nlm

51 MAR 15 1953

44-38861-29

Bureau files reflect the correspondent communicated with the Bureau August 13, 1951, and invited the Director to address the National Association of Women Lawyers. This letter was acknowledged August 21, 1951. The Bureau in a letter to the correspondent on June 12, 1952, advised Miss Zimmerman that the Director would be unable to address the afore-mentioned group. (94-36203-9110) b7c

The correspondent on September 7, 1952, again communicated with the Bureau enclosing some material which she thought of interest and was afforded routine acknowledgment. (94-36203-11)

NOTE ON YELLOW ONLY:

The National Committee for Clemency for the Rosenbergs is an adjunct or part of the National Committee to Secure Justice in the Rosenberg Case. (100-387835)

REC'D-1012-1201100

XXXXXX
XXXXXX
XXXXXXFEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

_____ Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- ☐ Deleted under exemption(s) _____ with no segregable material available for release to you.
- ☐ Information pertained only to a third party with no reference to you or the subject of your request.
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65-58236-1590 incoming dated 3-27-53
outgoing dated 4-7-53

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 X NO DUPLICATION FEE X
 X FOR THIS PAGE X
 XXXXXXXXXXXXXXXXXXXX

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

MAR 29 1953

TELETYPE

Mr. Tolson _____
Mr. Ladd _____
Mr. Nichols _____
Mr. Belmont _____
Mr. Clegg _____
Mr. Glavin _____
Mr. Harbo _____
Mr. Rosen _____
Mr. Tracy _____
Mr. Gandy _____
Mr. Mohr _____
Mr. Winterrowd _____
Tele. Room _____
Mr. Holloman _____
Mr. Sizoo _____
Miss Gandy _____

FBI PHILADELPHIA 3-29-53 1-11 PM

DIRECTOR AND SACS BALTIMORE AND NEW YORK..... U R G E N T
JULIUS ROSENBERG, ET AL, ESPIONAGE-R. REBUTEL THREE TWENTY EIGHT.
PHOTOGRAPH OF CONSOLE TABLE EXHIBITED TO DAVID GREENGLASS, U.S.P.,
LEWISBURG, PA., WHO ADVISED PHOTO RESEMBLED TABLE WHICH HE SAW IN
APARTMENT OF ROSENBERG. HE SAID HE COULD NOT IDENTIFY INSTANT TABLE AS
THE ONE USED BY ROSENBERG OR THE ONE WHICH HE MADE A CLAMP FOR. LETTER
FOLLOWS FURNISHING DETAILS CONCERNING CLAMP MADE BY GREENGLASS AND
ENCLOSING PHOTOGRAPHS TO BALTIMORE.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY 5042 pmt/Tha

ABBATICCHIO

RECORDED - 23

END

ACK

WA1-13 PM OK FBI WA SS

BA92 FBI BA JLC

NY OK FBI NYC

165-58436-1591
APR 9 1953
FIVE PM

63 APR 17 1953

cc Branigan

XXXXXX
XXXXXX
XXXXXXFEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

_____ Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- ☐ Deleted under exemption(s) _____ with no segregable material available for release to you.
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- ☐ Information pertained only to a third party. Your name is listed in the title only.
- ☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

_____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

1 Page(s) withheld for the following reason(s):
DISPOSITION HANDLED BY DEPT OF STATE

☒ For your information: FOREIGN SERVICE DISPATCH -
AmEmbassy, Buenos Aires to Dept of State April 7, 1953

☒ The following number is to be used for reference regarding these pages:
65-58236 - NR(4-7-53) after serial 1591

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X NO DUPLICATION FEE X
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Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI
 FROM : SAC, NEW YORK (65-15348)
 SUBJECT: JULIUS ROSENBERG, ET AL
 ESPIONAGE - R

DATE: 4/9/53

Mr. Tolson	
Mr. Ladd	
Mr. Nichols	
Mr. Belmont	
Mr. Clegg	
Mr. Glavin	
Mr. Harbo	
Mr. Rosen	
Mr. Tracy	
Mr. Gearty	
Mr. Mohr	
Mr. Winterrowd	
Tele. Room	
Mr. Holloman	
Mr. Sizoo	
Miss Gandy	

There is forwarded herewith for the information of Bureau a copy of a letter dated 3/20/53 that was written by O. JOHN ROGGE to the President.

This letter sets forth in detail the contents of letter that was written by DAVID GREENGLASS to Mr. ROGGE, in effect makes a plea for clemency for the ROSENBERGS.

The enclosed letter was given to the NYO by Mrs. HELEN PAGANO, Mr. ROGGE's secretary.

Enc. (1)

ENCLO. 5 PAGES

Let to Agent City Gen
 Division Olney III
 4/27/53
 APL/mon

G.I.R. 9

W

65-58236-1592

APR 10 1953

INDEXED-118

JAH:TIB ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 7/24/86 BY 3042PWT/NLS

ESM

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY 3042pwt/ALC

March 20, 1953

The Honorable Dwight D. Eisenhower
President of the United States
The White House
Washington, D. C.

Dear President Eisenhower:

On January 19 I wrote you on behalf of Mrs. Tessie Greenglass, the mother of Ethel Rosenberg who has been sentenced to death for espionage. You graciously caused her to be interviewed by the Pardon Attorney of the Department of Justice, Mr. Daniel M. Lyons.

I now quote the contents of an eloquent letter to me from David Greenglass, the brother of Ethel Rosenberg, who testified for the Government as did his wife Ruth:

"It has been quite some time since I've written you last. A lot has happened since they and I felt that I must break my silence and let you know where I stand on certain occurrences. I don't know whether it will help, but I would like you to present my views to the agency or agencies that can possibly commute my brother-in-law's and sister's terribly harsh sentence.

When I was first arrested I felt that I had to perform some act of contrition for the wrong I had done my country, my family, and myself. The way to do this was to tell the truth trusting this nation of ours to be just yet merciful. In my case I have little reason to find fault with that line of thought. I little realized that it would be otherwise for my sister and her husband.

Guilty they are, but the sentence is still one that puts a stain on the record of these United States. I know that if these people would tell their story they would be given a chance for life, but if they do not they will die. Now how could those deaths be of help to the country? As a deterrent? Never. How can you deter a fanatical communist? On the contrary they will be used as a motive for a new propaganda drive by the Soviet Government, charging the U.S. with "brutality." Then there is the very real harm that the knowledge these people have will die with them and this great underground web of espionage will continue to operate without fear of detection.

ENCLOSURE

3/20/53

In the event of a reduction of sentence, from that of death to one more in keeping with the humane tenets of our government, these people will continue to live. Living in jail is such that even the strongest is willing to talk to reduce his time. There you have the chance to gain this knowledge that would otherwise be gone. The other way is a blind alley.

I would be less than human if I did not state that if these two die, I shall live the rest of my life with a very dark shadow on my conscience. If you've ever hurt someone you have loved, even inadvertently, then you know how I feel. Here I had to take the choice of hurting someone dear to me and I took it deliberately. I could not believe that this would be the outcome. May God in his mercy change that awful sentence. Amen.

John I have written to you at length on this subject and I hope you'll forgive me for neglecting the usual amenities.

I hope this letter will do some good. Use it in all or in part as you see fit. I trust your judgment implicitly. I hope that you will handle this with the utmost discretion, my wife, my children, and my mother can do without the publicity.

I trust this finds you and your family well. Regards to your partners for me. I am looking forward to seeing you in the near future."

I beseech you to give David's plea for his sister Ethel your earnest consideration.

Very sincerely,

O. JOHN ROGGE

OJR:MRP

Assistant Attorney General
Warren Olney III

April 27, 1953

CONFIDENTIAL

Director, FBI

JULIUS ROSENBERG, ET AL
ESPIONAGE - R

RECORDED - 118 (FBI File 65-58236) - 1692

There is forwarded herewith for your information
a Photostat of a copy of a letter dated March 20, 1953,
written by C. John Rogge to President Eisenhower. It will
be noted that this letter sets forth in detail the contents
of a letter written by David Greenglass to Mr. Rogge, and,
in effect, makes a plea for clemency for the Rosenbergs.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY 3062 PWT/MLF

Enclosure
APL:amw

- Tolson
- Ladd
- Nichols
- Belmont
- Clegg
- Glavin
- Harbo
- Rosen
- Tracy
- Laughlin
- Mohr
- Tele. Rm.
- Holloman
- Gandy

COMM - FBI
APR 28 1953
MAILED 25

68 MAY 7 1953

RECEIVED RECORDS ROOM
FBI

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI (65-58236)

DATE: April 13, 1953

FROM : SAC, WFO (65-5521)

SUBJECT: JULIUS ROSENBERG, et al.,
ESPIONAGE - R

The National Lawyers Guild filed a Motion for Leave to File a Brief of the National Lawyers Guild as Amicus Curiae of the Supreme Court on April 10, 1953, in behalf of ETHEL and JULIUS ROSENBERG. The purpose of filing the brief was: "The question may be stated as follows: Is a new rule of law required to satisfy the Sixth Amendment requirement of due process in the light of the development and impact of the means of mass communication, the press, radio and television upon legal proceeding?"

This motion in behalf of the National Lawyers Guild was submitted by EARL B. DICKERSON, 3501 South Parkway, Chicago, Illinois, and OSMOND K. FRAENKEL, 120 Broadway, New York, N. Y., as counsel.

The Supreme Court did not act on motion filed by the National Lawyers Guild as Amicus Curiae or the Motion for a Writ of Certiorari filed by the ROSENBERGS' Attorney on March 30, 1953, at today's session.

A copy of the motion presented by the National Lawyers Guild is forwarded herewith for the Bureau.

ENCLOSURE - 1

HF/mmnd

2-CC-NEW YORK (65-15348) — REGISTERED MAIL

ALL INFORMATION CONTAINED
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DATE 18-7-83 BY SP2TAP/LS
7/24/86 3042 pwt/nlc

ENCLO. ATTACHED

RECORDED - 71

INDEXED - 71

65-58236-1593
6 APR 14 1953

67 APR 21 1953

Office - Supreme Court, U. S.

F I L E D

APR 10 1953

HAROLD B. WELLEY, Clerk

Supreme Court of the United States

OCTOBER TERM, 1952

No. 687

JULIUS ROSENBERG and ETHEL ROSENBERG,
Petitioners,

vs.

THE UNITED STATES OF AMERICA.

Petition for a Writ of Certiorari to the United States
Court of Appeals for the Second Circuit

**MOTION FOR LEAVE TO FILE BRIEF OF NATIONAL
LAWYERS GUILD AS AMICUS CURIAE**

NATIONAL LAWYERS GUILD as Amicus Curiae,

EARL B. DICKERSON,
3501 South Parkway,
Chicago, Ill.,

OSMOND K. FRAENKEL,
120 Broadway,
New York, N. Y.

Counsel.

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 7/24/86 BY 3042 PWT/ALC

Enclosure

65-58236-1593

Supreme Court of the United States

OCTOBER TERM, 1952

No. 687

JULIUS ROSENBERG and ETHEL ROSENBERG,
Petitioners,

THE UNITED STATES OF AMERICA

**Petition for a Writ of Certiorari to the United States
Court of Appeals for the Second Circuit**

**MOTION FOR LEAVE TO FILE BRIEF OF NATIONAL
LAWYERS GUILD AS AMICUS CURIAE**

*To the Honorable, The Chief Justice of the United States
and the Associate Justices of the Supreme Court of
the United States:*

The National Lawyers Guild is a bar association of national membership. Among its aims is the promotion of justice in the administration of the law. In pursuance of this aim it has frequently intervened as *amicus curiae* whenever the opportunity presented itself to advance the promotion of justice by the furtherance of the proper administration of law.

It is for that reason that we respectfully seek leave of the Court to intervene as *amicus curiae* in this proceeding.

In our brief as *amicus curiae* we would argue a question of law not presented in all of its significant aspects by the

parties, or previously decided by this court, and which is relevant to the disposition of this case. We earnestly submit that the issue here discussed is of fundamental importance and far-reaching consequences for the true administration of justice.

Consent of the Solicitor General of the United States to the filing of our brief as *amicus curiae* has been requested but refused. Counsel for petitioners have indicated their willingness to consent.

Brief Statement of Argument to be Presented if Leave to File Brief is Granted

This petition affords the opportunity for consideration and determination of an original question of law of major importance to the true administration of justice in the courts. That question may be stated as follows: Is a new rule of law required to satisfy the Sixth Amendment requirement of due process in the light of the development and impact of the means of mass communication, the press, radio and television upon legal proceedings? In the words of Chief Judge Magruder in the *Delaney* case (129 F.2d 107, 112, 1 Cir.): "Perhaps the Supreme Court has not spoken its last word upon this vexing subject."

The Court of Appeals saw the issue before it in this case as merely a procedural one which, when tested by prevailing standards, failed to satisfy it that the appellant had been improperly convicted and sentenced. It discussed the question under the heading "Alleged Prejudicial Newspaper Publicity" and disposed of it almost cursorily with the conclusion (a) that it was "an afterthought" of counsel; (b) that it was less damaging than in the *Delaney* case; (c) that counsel failed to move for a continuance; and (d) that counsel didn't really believe the publicity was harmful. We are forced to the conclusion that for the Court of Appeals the question raised no fundamental issue, and had

merely a specific application to the case at hand, not a general one to all cases which are the subject of intense discussion in the media of mass communication before and during the trial.

We believe otherwise. As we see it, this Court is confronted with a due process question going to the essentials of the constitutional guarantee of a fair trial. It is not a question of the subjective views of counsel (on either side), or of the parties to an action, or even of the adequacy of the court's efforts to give the parties, especially the defendants in a criminal case, fair play.

The real issue is whether it is possible to conduct a fair trial when the case is pre-tried and co-tried in the public arena through the medium of the press, radio, television and other forms of propaganda or publicity.

We cannot agree with the view expressed by the Court of Appeals that the *Delaney* opinion should be understood as turning upon the point of a timely motion by counsel for a continuance. The appellate judges in the First Circuit raised their eyes above the printed record, and looked beyond the courtroom scene and its participants, judges, lawyers, jury and defendant. They placed the case in its real setting; the city of Boston, and one of its leading politicians, the national Internal Revenue investigation, hundreds of stories, radio reports, television programs, millions of readers and listeners, were all essential parts of the picture. They thus came to see the true form and content of the fundamental issues raised by the *Delaney* trial. Was this due process? Was this a fair trial? Was this giving the defendant his day in court, as the Constitution commanded and fair play required?

The *Reconbery* case presents the same question before this court only more grimly. Life not alone liberty is at stake. The defendants are not prominent, influential politicians, charged with an offense quite commonplace for politicians, and to which most people are indifferent; he-

cause it appears to affect them only vaguely. The petitioners here were obscure individuals. They were accused of a crime which any of their adult fellow Americans might look upon as potentially dangerous to them personally. The *Delaney* publicity may have been more concentrated and closer to the trial, but the Court of Appeals in the *Rosenberg* case in calling it "more obviously damaging" than the *Rosenberg* publicity was for the moment, shutting its mind to reality.

The nature and extent of the publicity here made it imperatively necessary to adopt a standard so as to insure that our courts of law shall do exact justice under law, not also the passing clamor.

We believe "the present case favors the opportunity to settle these matters as respects the administration of the Federal Criminal Law." *Sorelle v. U. S.*, 287 U. S. 435, 454. In the *Sorelle* case this court was confronted with the problem of adopting a policy for cases where entrapment occurred and for which "no guide or rule" nor "principle of statutory consideration" existed. Said Mr. Justice Roberts in a separate opinion concurred in by Justices Brandeis and Stone: "the doctrine rests rather on a fundamental rule of public policy. The protection of its own functions and the preservation of the purity of its own temple belongs only to the court." P. 457.

Without suggesting what standards should apply to all cases, for present purposes it is sufficient to recognize that requirements of due process are not fulfilled in any case where it appears as a fact that widespread propaganda concerning the specific subject matter of the case was carried on as a preface to or parallel with the legal proceedings. It is not enough for the Court, in such cases, to measure on judicial scales the weight of the propaganda and to conclude from case to case whether or not the defendant suffered therefrom. The same standard should be adopted as

the court has finally come to apply to cases involving denial of right of counsel, or the systematic exclusion of persons from juries for race and color. Today the due process principle is unchallenged that where there is any form of denial of the right of counsel, or where jury lists are discriminatory, the court will not sustain the judgment.

We believe that the rationale of the decisions in those cases is that it is the administration of justice, not alone the rights of the parties to a case which requires the setting aside of such judgments.

So also, where a trial takes place under circumstances such as those prevailing in the *Delaney* and *Rosenberg* cases, that trial is null and void, *ab initio*. It matters not what the judge's opinion may be concerning the merits of the case; nor the failure of counsel to raise the issue (nor even counsel's temporary belief that the propaganda was not seriously injurious to his client). The interest of a democratic society in the true administration of justice transcends the interests or desires of the participants.

The benefit or loss to the parties involved in the case is a secondary matter under these circumstances. A useful analogy is afforded by the action of the courts in declaring judgments to be void as a matter of public policy in divorce cases, despite the unfortunate consequences to one of the parties who might as a direct result of the court's decision have become the subject of a bigamous marriage or be deemed to have given birth out of wedlock.

Similarly this court has held that a confession obtained during an arraignment after a period of unlawful detention, may not be introduced in evidence whether or not such unlawful detention resulted in the confession. *McNabb v. U. S.*, 318 U. S. 332.

When surrounding conditions such as those prevailing here are brought to its attention, in whatever manner or at whatever time, the court should consider it to be its duty,

in character such a judgment as a nullity or in the case of the trial judge to refuse to proceed with the trial until the impact of such external influences has been dissipated.

"We do not consider the opinion in the *Delaney* case as being limited to the facts of that case. It was, of course, correct to hold that if 'the legislative committee deemed that an open hearing at that time was required by overriding considerations of public interest, then the committee was, of course, free to go ahead with its hearing, merely accepting the consequence that the trial of Delaney as the pending indictment might have to be delayed.' But even if the King Committee had held its hearings in Washington rather than Boston and in executive rather than public session, if the propaganda produced through the media of mass communication constituted a pre-trial of the issues or a parallel trial, no fair trial could have taken place. So here, we consider the action of the prosecutor in injecting inflammatory matter into the public blood-stream, to be an aggravation of the evil but not the entire evil. The total evil was the sum of the atom bomb and atom spy publicity and propaganda from whatever source it emanated, which we designate as pre-trial and parallel trial of the *Rosenberg* case.

It is of little moment that a defendant expresses no dissatisfaction with his trial, though it be an unfair trial. If an armed mob surrounds a courthouse shrieking for conviction, the defendant's willingness nevertheless to proceed to trial does not absolve the court or satisfy the requirement of due process and fair trial. And the same is true if the situation be reversed, the prosecution being ready to proceed despite the mob's demand that the defendant be released. There is no power in a party or in counsel to waive a "fair trial." The public interest is at stake in every trial and that interest demands that every trial be a fair trial.

"But a trial in court is never, '... purely a private controversy' ... of no importance to the public." The State,

whose interest it is the duty of court and counsel alike to uphold, is concerned that every litigation be fairly and impartially conducted and that verdicts of juries be rendered only on the issues made by the pleadings and the evidence." *N. Y. Central R. R. Co. v. Johnson*, 279 U. S. 310, 318. See also *Pierce v. U. S.*, 86 F. 2, 949, 953.

It would be a strange paradox indeed were courts to apply this basic principle with unwavering regularity and sternness where a single improper act of limited scope takes place—for example, an appeal to prejudice by counsel, and reject it where the total trial from beginning to end is infected with prejudice. Yet that is the consequence of the decision of the Court of Appeals in this case. It condemned the single act of misconduct committed by the prosecution in issuing statements concerning a prospective witness, yet remained unaffected by the overwhelming record of hostile propaganda or publicity which inevitably infected every aspect of the case from the day the trial opened until the judgment.

CONCLUSION

At the present stage of their development the media of mass communication generate propaganda pressures in many and varied forms which tend especially, in certain types of cases, to impede the true administration of justice. The manifestations and effects of such pressures are most apparent in cases such as *Rosenberg* and *Delaney*—cases which raise important issues arousing wide public interest.

In all such cases, it is our belief that the interests of justice are better served if a trial is deferred until a calmer time. This is true whether or not the parties recognize the need for delay and take the technical step of moving for it. The assurance of equal justice and a fair trial for all accused persons is a fundamental responsibility of governments, and in the first place, of the courts. The circum-

stance that counsel may be unaware of the impact of propaganda pressures does not alter or fulfill this judicial responsibility. The determination of judges, juries and lawyers to stand impervious are not sufficient guarantees of true objectivity. When the careers, even the livelihood of individuals, may turn upon the outcome, the pressures may well find channels for operation even below the level of consciousness.

We respectfully submit that certiorari should be granted here if only for the purpose of considering whether in this case, and in all similar cases upon which the media of mass communication have operated intensively in the direction of creating a hostile atmosphere, the rule should or should not be adopted to treat the resulting judgment as a nullity, ordering a new trial at such time as the impact of massive hostile propaganda has been dissipated.

Respectfully submitted,

NATIONAL LAWYERS GUILD as *Amicus Curiae*,

EARL B. DICKERSON,
3501 South Parkway,
Chicago, Ill.

OSMOND K. FRAENKEL,
120 Broadway,
New York, N. Y.

Counsel.

THE UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF NEW YORK

March 25, 1953

MYLES J. LANE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/24/86 BY 3042 PWT/NLc

Mr. J. Edgar Hoover
Director
Federal Bureau of Investigation
Washington 25, D. C.

Re: United States v. Ethel and Julius
Rosenberg, et al.

Dear Mr. Hoover:

This letter constitutes one of my last official acts as United States Attorney for the Southern District of New York. However, it is one of the most pleasant duties which I have performed during my tenure as United States Attorney.

As you know, I took a very active part in the preparation and trial of the above-entitled matter. Since the trial I have on many occasions made speeches, in which I have told my audiences that the credit for the conviction of the defendants in this case belongs to the Federal Bureau of Investigation. I have always emphasized the fact that particular credit belongs to two men who, in my opinion, were responsible for winning the case. I refer to Special Agents John A. Harrington and William Norton. These two Agents worked long and diligently prior to, during and subsequent to the trial. I cannot say too much for their tireless efforts and their splendid cooperation.

I should like to add a word, too, of praise for the efforts of Special Agents Richard A. Minihan, Maurice W. Corcoran and Armand A. Cammarota. Their contribution to the preparation and successful prosecution of the case was also

Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Gearty
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Holloman
Mr. Sizoo
Miss Gandy

RECORDED

APR 9 1953

3-31-53
MJC

165-58231-1794
EX-107
FBI
APR 9 1953

THE UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF NEW YORK

MYLES J. LANE

Mr. J. Edgar Hoover

-2-

March 25, 1953

a substantial one.

I reiterate what I have said on so many occasions, that you are to be congratulated for the splendid work of your great organization. The magnificent record which the Federal Bureau of Investigation has compiled is a direct tribute to your own personal ability as an organizer and a leader.

Very truly yours,

A handwritten signature in cursive script, reading "Myles J. Lane". The signature is fluid and elegant, with a large initial "M" and a long, sweeping underline.

Myles J. Lane

RECORDED-130

INDEXED-130

65-58236-1594

March 31, 1953

Honorable Nyles J. Lane
United States Attorney
Southern District of New York
New York, New York

G.I.R. 9 *[Signature]*

My dear Mr. Lane:

I was very pleased to receive your letter of March 25, 1953, and you are extremely thoughtful to comment so favorably regarding the efforts of Special Agents John A. Harrington, William F. Norton, Jr., Richard A. Minihan, Maurice W. Corcoran, and Armand A. Cammarota. Needless to say, communications such as yours are most reassuring, and I am taking the liberty of bringing your letter to the attention of these men. You may be sure they will be as grateful for your remarks as I am.

Your thoughtful comments regarding my administration of the FBI are very encouraging, and I hope our activities always will inspire your confidence.

Sincerely yours,

J. Edgar Hoover

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY 3042 PWT/jlc

- Tolson
- Ladd
- Nichols
- Belmont
- Mohr
- Glavin
- Harbo
- Rosen
- Tracy
- Gearty
- Winterrowd
- Tele. Room
- Holloman
- Gandy

Note: SA John A. Harrington, EOD 8-2-43, GS-12, assigned New York.
SA William F. Norton, Jr., EOD 7-21-41, resigned 3-22-46, reinstated 7-29-46, GS-13, assigned New York, Resident Agent in Middletown.
SA Richard A. Minihan, EOD 8-19-46, GS-12, assigned New York.
see next page

APR 27 1953
RHD:ugh

APR - 2 1953
COMM-FBI

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FBI
MAR 31 4 20 PM '53

[Handwritten signature]

[Handwritten initials]

Note: SA Maurice W. Corcoran, EOD 9-21-42, GS-12, assigned
New York.

SA Armand A. Cammarota, EOD 4-14-47, GS-12, assigned
New York.

SAC, New York (65-15348)

April 10, 1953

Director, FBI (65-58236)

MAY 1953
**JULIUS ROSENBERG;
ETHEL ROSENBERG
ESPIONAGE - R**

ReBulet March 5, 1953, requesting your office to identify and ascertain the background of Harry Goldberg of Harriman Road, Hempstead, New York, who was mentioned in an anonymous letter received by the Bureau.

Advise immediately results of your inquiries in this matter.

APL:am
APL:am

NOTE: Bureau received anonymous letter dated 2-21-53, mailed from Hammenton, New Jersey, stating Goldberg should be checked in connection with the Rosenberg espionage ring. Bureau letter 3-5-53, requested the New York Office to identify this individual in an effort to determine whether sufficient basis exists to institute investigation of this individual.

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 7/24/86 BY 3042 PWT/nle

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Tolson _____
Ladd _____
Nichols _____
Belmont _____
Clegg _____
Glavin _____
Harbo _____
Rosen _____
Tracy _____
Laughlin _____
Mohr _____
Winterrowd _____
Tele. Rm. _____
Holloman _____
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APRIL 6, 1953

SAC, NEW YORK (65-15068)

JULIUS ROSENBERG, ET AL, ESPIONAGE - R. REUTEL
APRIL EIGHT, NINETEEN FIFTYTHREE. AUTHORITY TO FURNISH
ONE COPY OF PHILADELPHIA REPORT SA HAYES G. HUNT DATED
MARCH THIRTIETH LAST, TOGETHER WITH PHOTOSTAT OF GREENGLASS
STATEMENT, GRANTED.

HOOVER

APL:cam

65-58236

65-59028

ALL INFORMATION CONTAINED
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DATE 7/24/81 BY 3042/MLC

NOTE: Re efforts of Rosenbergs to secure new trial, their attorney
is attempting to secure any information which would prove
Greenglass, main government witness, a liar. In March, 1953, it
was learned Rosenbergs claimed to know Greenglass stole uranium
while employed at Los Alamos during 1944-46 and withhold this
information from the FBI. This obviously refers to Bureau investi-
gation instituted in 1949 in case [redacted] et al,
AKA, TROPIC which involved thefts of numerous uranium hemispheres
from Los Alamos. Individuals who had access to this material
were interviewed by Bureau Agents, including Greenglass, who
interviewed in January, 1950, prior to our knowledge of his
involvement in Soviet espionage. Greenglass denied such theft.
Rosenbergs are attempting to secure affidavit from any Greenglass
relative concerning this apparently for use as basis for new trial
on newly discovered evidence. In view of Rosenbergs' claim Greenglass
interviewed March 25, 1953, and signed statement secured. Interview
reported in SA Hunt's report. Greenglass admitted theft and states
Rosenberg knew this. He threw uranium in East River after Bureau
interview in January, 1950. Bureau memo, March 31, 1953, advised
Department and AEC. Apparently USA, SDNY, wants Greenglass
statement for analysis in anticipation of further legal efforts of
Rosenbergs to secure new trial on this point in event Supreme Court
denies them certiorari.

Tolson _____
Ladd _____
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TELETYPE

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

APR 10 1953

53 APR 23 1953

AIR-TEL
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE
NEW YORK, 4/8/53

Mr. Tolson _____
Mr. Ladd _____
Mr. Nichols _____
Mr. Belmont _____
Mr. Clegg _____
Mr. Glavin _____
Mr. Harbo _____
Mr. Rosen _____
Mr. Tracy _____
Mr. Gearty _____
Mr. Mohr _____
Mr. Winterrowd _____
Tele. Room _____
Mr. Holloman _____
Mr. Sizoo _____

Transmit the following Teletype message to: BUREAU & BALTIMORE

JULIUS ROSENBERG, ET AL, ESPIONAGE - R. RE BALTIMORE LETTER

4/4/53. MR. KELLY OF MACY'S, ADVISED THAT HE WAS UNABLE TO

DETERMINE AFTER A SEARCH OF MACY'S INVENTORY RECORDS, WHEN

MACY'S FIRST RECEIVED AND SOLD-CONSOLE TABLES MANUFACTURED

BY BRANDT CABINET WORKS, INC. BALTIMORE WILL CHECK WITH MR.

HOOPS AT HAGERSTOWN, MARYLAND, AND DETERMINE WHEN HIS COMPANY

SOLD AND DELIVERED THE CONSOLE TABLES IN QUESTION TO MACY'S.

BOARDMAN

- 3 - BUREAU (REGISTERED) (REGULAR MAIL)
2 - BALTIMORE (REGISTERED) (REGULAR MAIL)

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DATE 7/24/86 BY 3042 PWT/ULS

JAH:MEH (#6)
65-15348

APR 23 1953

21 APR 9 1953

Approved: _____

Special Agent in Charge

Sent _____

Per _____

Office Memorandum • UNITED STATES GOVERNMENT

TO : MR. A. H. BELMONT

DATE: April 8, 1953

FROM : MR. W. A. BRANIGAN

SUBJECT: JULIUS ROSENBERG;
ETHEL ROSENBERG
ESPIONAGE - R
(BuFile 65-58236)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY 3042 put/wlc

Tolson ✓
Ladd ✓
Nichols ✓
Belmont ✓
Clegg ✓
Glavin ✓
Harbo ✓
Rosen ✓
Tracy ✓
Laughlin ✓
Mohr ✓
Winterrowd ✓
Tele. Rm. ✓
Holloman ✓
Gandy ✓

SYNOPSIS

Petition to U. S. Supreme Court for writ of certiorari requesting reversal of decision of USCCA, affirming order of U. S. District Judge Ryan denying, without hearing, Rosenbergs' motion for relief under 28 USC 2255, filed by subjects 3-30-53. Analysis of defendants' petition reflects same points which were previously presented in lower courts being presented to Supreme Court, namely:

1. Greenglass' testimony was perjury in that educational background of Greenglass made him incapable of reproducing sketches of lens mold and cross section of A Bomb at trial, proving he must have been coached.
2. Ben Schneider's testimony was perjury when he stated he had not seen the Rosenbergs from the time he took their pictures in June, 1950, until date of his appearance as a witness on 3-27-51, because he was actually brought into courtroom by FBI Agent on 3-26-51 to view the Rosenbergs.
3. Greenglass' testimony that he did not withhold information from the FBI when first arrested was perjury
4. Perjury indictment and arrest of William Perl during Rosenberg trial and publicity resulting therefrom was deliberately "timed" by prosecutor to prejudice defendants.
5. Government-inspired-trial and pre-trial publicity affected defendants' right to fair trial.
6. Material allegedly transmitted by Greenglass was arbitrarily and capriciously classified by Government as "Secret" whereas it was widely known and published throughout the world.

ENCLO. BEHIND FILE

Government brief in opposition filed in Supreme Court 4-2-53, points out no merit to defense claims and not entitled to relief under Section 2255, because points could have been presented at original trial or on appeal, and it is not function of Section 2255 to provide defendants a second appeal.

SECTION
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65-58236-1598

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RECOMMENDATION

None. For your information.

BACKGROUND

You will recall that the Rosenbergs twice made appeals to the United States Supreme Court for writs of certiorari in an effort to have their case reversed and were unsuccessful on both occasions. Thereafter, Judge Kaufman, SDNY, ordered their execution to take place during the week of 1-12-53. In December, 1952, defendants filed a petition under Section 2255, Title 28, USC, to vacate their convictions and stay the executions and requested a hearing on various points to prove that they did not receive a fair trial. On 12-10-52, Judge Ryan, SDNY, denied the petition in all respects. The U. S. Circuit Court of Appeals upheld Judge Ryan's opinion 12-31-52. Thereafter, Judge Kaufman stayed the execution of the Rosenbergs pending their application to the President for executive clemency. On 2-11-53, President Eisenhower denied clemency. On 2-17-53, the defendants obtained a stay of execution from the U. S. Circuit Court of Appeals to afford them the opportunity to apply to the U. S. Supreme Court for certiorari in an effort to have the denial of their petition under Section 2255 reviewed.

DETAILS

On 3-30-53, the defendants filed a petition 56 pages in length for a writ of certiorari with the U. S. Supreme Court. It is noted that the points raised by the defendants in this brief are the same as those presented to Judge Ryan and the Circuit Court of Appeals. On 4-2-53, the

Government filed its brief with the Supreme Court in opposition thereto which in effect alleges that the defendants' claim has no merit; further, they are not entitled to relief under Section 2255 because the points raised by them could have been made at the trial and on the original appeal, and it is not the function of Section 2255 to provide a second appeal to these defendants.

A concise summary of points raised by the defendants and the answers thereto, as stated in the Government's brief, are set forth herein under appropriate headings.

**TESTIMONY OF DAVID GREENGLASS ON THE
A BOMB DATA WAS PERJURY AND KNOWN
TO BE SO BY THE PROSECUTOR**

The defendants' petition charges that the testimony of Greenglass concerning the transmission of "Secrets" of the Nagasaki Atom Bomb was perjury because Greenglass did not possess the educational and scientific background to retain such information and therefore he must have received outside assistance in preparing for his testimony with the prosecutor's knowledge and connivance. In support of this argument the defendants refer to affidavits submitted by four European scientists who claim it is inconceivable for a man of Greenglass' background to give such testimony without outside assistance.

The Government's brief answers this point by stating that the defendants had every opportunity to attack the credibility of Greenglass on cross-examination at the trial, and they cannot again make this contention under Section 2255.

**TESTIMONY OF BEN SCHNEIDER,
PASSPORT PHOTOGRAPHER, WAS PERJURY
AND KNOWN TO THE PROSECUTOR TO BE SO**

The defendants contend that Schneider perjured himself when he testified on 8-27-51, that he had not seen Rosenberg since June, 1950, when he took passport photos of the Rosenbergs, and that the prosecutor knew this. It is

pointed out that an FBI Agent admitted in an affidavit that he brought Schneider into the courtroom on 3-26-51, at the request of the prosecutor to view the Rosenbergs.

The Government's brief cites the opinion of Judge Ryan on this point, which stated that there was not the slightest evidence that Schneider's testimony was intentionally false.

TESTIMONY OF DAVID GREENGLASS THAT HE DID NOT "CONSCIENTIOUSLY WITHHOLD" INFORMATION FROM THE FBI WHEN ARRESTED ON JUNE 16, 1950, WAS PERJURY AND KNOWN TO BE SO BY THE PROSECUTOR

The defendants assert that Greenglass' testimony on this point is belied by statements made by the then U. S. Attorney Saypol and O. John Regge, Greenglass' counsel at the time of the sentencing of Greenglass on 4-6-51, which occurred after the Rosenberg trial. Saypol had stated that Regge had protested Greenglass' innocence and that through Ruth Greenglass came subsequent recantations of these protestations, their cooperation and the disclosure of facts by the both of them; thus indicating to the defendants that Greenglass did not fully cooperate with the Government from the outset. Regge had stated that Greenglass cooperated almost from the outset.

The Government brief answers this point by stating that the fact further cooperation may have come from the Greenglasses subsequent to arraignment does not mean that Greenglass falsified the degree of his early cooperation or that the United States Attorney knowingly participated in securing any such falsehood.

THE PERJURY INDICTMENT AND ARREST OF WILLIAM PERL DURING THE ROSENBERG TRIAL AND THE PUBLICITY RESULTING THEREFROM WAS DELIBERATELY "TIMED" BY THE PROSECUTOR TO PREJUDICE THE DEFENDANTS

The defendants claim that the indictment and arrest of William Perl during the Rosenberg trial was deliberately "timed" by the prosecutor to prejudice the Rosenbergs as

indicated by the failure of the Government to bring Perl to trial at this late date; further, the publicity resulting therefrom and particularly the statement of Saypol to the press at the time of the Perl arrest that Perl had been listed as a prosecution witness in the Rosenberg case to corroborate certain statements of the Greenglasses was indicative of a fraudulent abuse of process by the prosecutor to the detriment of the Rosenbergs. The defendants cite part of the opinion of the Circuit Court of Appeals on this point, which stated that Saypol's statement was "wholly reprehensible," and that "if the defendants had moved for a new trial, it should have been granted."

The Government answers this argument by pointing out the Circuit Court of Appeals' opinion that the defendants deliberately did not move for a mistrial at the time. The Government also states that it is not the function of Section 2255 to repair alleged mistakes made during the trial.

**GOVERNMENT-INSPIRED-TRIAL AND PRE-TRIAL
PUBLICITY AFFECTED THE DEFENDANTS'
RIGHT TO A FAIR TRIAL**

The defendants contend that information "fed" to the press by the Government and linking the Rosenbergs with Fuchs, Gold, and others created fear and hysteria in the minds of the public and precluded the defendants from receiving a fair trial.

The Government answers this point by stating the defendants have waited too long in raising an objection that could have been made at the trial, and that Section 2255 cannot be used to correct this omission.

**THE MATERIAL ALLEGEDLY PASSED BY
GREENGLASS WAS ARBITRARILY AND
CAPRICIOUSLY CLASSIFIED "SECRET"**

The defendants contend that this material was not "Secret" but was scientific and technological data widely known and published throughout the world and especially in the Soviet Union.

The Government pointed out that this contention is plainly insufficient to support the relief the defendants seek. Assuming, arguendo, that the lens mold was in fact public knowledge, it is still undisputed that the other information which Greenglass transmitted fell within the highest security classification. This includes the security regulations at Los Alamos, the physical layout of the project, the names of the scientists working there, and the cross-section sketch of the Atom Bomb, together with the accompanying descriptive data.

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Office - Supreme Court, U. S.
FILED
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HAROLD B. WHITEY, Clerk

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DATE 12/18/84 BY 3042 PWT/SL

No. 687

In the Supreme Court of the United States

OCTOBER TERM, 1952

JULIUS ROSENBERG AND ETHEL ROSENBERG,
PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

65-58236-1598
ENCLOSURE

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In the Supreme Court of the United States

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ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINION BELOW

The opinion of the Court of Appeals (R. 329-337) is reported at 200 F. 2d 666. The opinion of the District Court (R. 8-30) is reported at 108 F. Supp. 798.

JURISDICTION

The judgment of the Court of Appeals was entered on December 31, 1952 (R. 338). The petition for a writ of certiorari was filed on March 30, 1953. The jurisdiction of this Court is invoked under 28 U. S. C. 1254 (1).

(1)

QUESTIONS PRESENTED

Whether a motion under 28 U. S. C. 2255 to vacate sentences for conspiracy to commit espionage was properly denied without a hearing where:

1. Petitioners' allegations as to the knowing use of perjured testimony at the trial constitute only renewed attacks on the credibility of witnesses.

2. Petitioners, who made no request for a change of venue or postponement of the trial, allege that they were denied a fair trial by reason of newspaper publicity resulting in "communal prejudgment" of their guilt.

3. Petitioners allege that some of the material, the transfer of which formed the basis of their convictions, was arbitrarily classified as secret.

STATUTE INVOLVED

Section 2255 of the Judicial Code, as amended, provides, in relevant part, that:

A prisoner in custody under a sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

A motion for such relief may be made at any time.

Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the United States attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto. * * *

STATEMENT

On April 5, 1951, petitioners were convicted of conspiracy to commit espionage in time of war (R. 31). Both were sentenced to death (R. 31). The convictions were affirmed, and a petition for rehearing was denied by the Court of Appeals. *United States v. Rosenberg*, 195 F.2d 583 (C. A. 2). A petition for a writ of certiorari was denied by this Court on October 13, 1952, 344 U. S. 838, and a petition for rehearing was denied on November 17, 1952, 344 U. S. 889 (Nos. 111-112).

On November 24, 1952, petitioners filed a motion in the United States District Court for the Southern District of New York, under Section 2255 of the Judicial Code, to set aside the judgment of conviction and sentence on grounds which may be summarized as follows (R. 30-128):

1. Pre-trial and trial publicity, bearing on the issues of petitioners' case, adversely reflected on their innocence, pre-conditioned the public mind in the Southern

District of New York to an acceptance of their guilt, and created a trial atmosphere of prejudice and hostility toward them, through:

a. Newspaper publicity developed by the independent initiative and private enterprise of the newspapers circulated within the Southern District of New York;

b. Information, indicating the guilt of petitioners, "fed to" the press and other mass media of communication circulated within the City of New York by the Federal Bureau of Investigation, the Department of Justice, the office of the United States Attorney for the Southern District of New York, and other officials of Government, and reported widely by said media of publicity;

c. The indictment of William Perl, procured by the prosecuting authorities in the Southern District of New York, in the course of petitioners' trial and before the verdict against them, and statements to the press in connection therewith, all having the effect of prejudicing the minds of the jurors sitting in petitioners' cause.

2. The prosecuting authorities knowingly used false testimony to bring about petitioners' convictions, as shown by the following facts:

a. Discrepancy between testimony by David Greenglass as to his early cooperation with the authorities and the statement by the United States Attorney, at the time of

Greenglass' sentencing, indicating less spontaneous cooperation;

b. Improbability that Greenglass could have reproduced from memory certain sketches introduced at the trial, particularly that showing a cross-section of the atom bomb, the inference being that he was improperly "coached" in connection therewith;

c. Discrepancy between the testimony of Ben Schneider, whose testimony indicated the Rosenbergs were planning to flee the country, that he had not seen the Rosenbergs between the time he took pictures of them and the date of his testimony, and the allegedly inconsistent fact that he had been brought to the court room the day before to verify his identification of the Rosenbergs.

3. Some of the material allegedly transferred was arbitrarily and capriciously classified as secret when in fact it was lawfully, widely, and publicly known, thus precluding its communication from being a violation of law.

The facts as to each of these questions are set forth at the appropriate point in the argument.

The District Court found that the files and records of the case and the papers and exhibits submitted on the motion conclusively showed that the petitioners were entitled to no relief (R. 8-30), and, on December 10, 1952, denied their motion (R. 5-6).

On appeal to the Court of Appeals for the Second Circuit, the order of dismissal was affirmed (R. 330-339). The present petition seeks to review this judgment.

ARGUMENT

One week after the petition for rehearing on their prior certiorari application was denied by this Court, petitioners filed the motion presently before the Court. Each of the principal questions now sought to be raised could have been presented during the course of the original trial or the appeal.¹ As we shall show, none of the petitioners' contentions have merit. But in any event, Section 2255 was not intended to permit defendants to prolong litigation by means of a new proceeding running from the district court through to this Court and raising no issues which could not have been previously presented. Furthermore, it is not the function of Section 2255 to provide a second appeal; the procedure was designed as the equivalent of habeas corpus and is subject to the same limitations with respect to the issues which are open to such a collateral attack. *United States v. Hayman*, 342 U. S. 205.

1. Petitioners contend that the United States Attorney knowingly used false testimony at the trial, with the consequence that they were deprived of a fair trial. Specifically, two in-

¹ The only exception is the question discussed in paragraph 1. a., *infra*, pp. 7-8.

stances of alleged false testimony by David Greenglass and one by Ben Schneider are relied upon.

Before referring to the specifications of perjury, it should be noted that the burden, in this aspect of the case, is on petitioners to show affirmatively "(1) that perjured testimony was used, [and] (2) that it was knowingly, wilfully and intentionally used by the prosecuting officers." *Ryles v. United States*, 198 F. 2d 199, 200 (C. A. 10); cf. *Mooney v. Holohan*, 294 U. S. 103, 112. By this test, it is clear that petitioners have not stated a case for relief. The present case is not at all similar on its facts to *Price v. Johnston*, 334 U. S. 266, or *Walker v. Johnston*, 312 U. S. 275, with which it is asserted by petitioners to be in conflict. The petitions and responses in those cases raised factual questions which could be resolved only by taking testimony. Here, although the factual assertions are in part denied, the basic question is the legal one of whether the credibility of witnesses may be retested on collateral attack.

a. Petitioners point out that Greenglass testified that on the night of his arrest he made a statement to the F. B. I. and that he did not withhold any facts (R. 78). They also refer to the fact that he denied instructing his lawyer "to fight this case" (R. 79). On the other hand, petitioners point to the fact that when Greenglass was sentenced on April 6, 1951, the day after petitioners were sentenced, the United States At-

torney stated to the court that Greenglass' counsel had protested Greenglass' innocence at the arraignment, and further stated that "Through Ruth Greenglass, his wife, came the subsequent recantation of those protestations, their representation and the disclosure of the facts by both of them" (R. 79). On the basis of this alleged discrepancy between the statements of the prosecutor and Greenglass' earlier testimony, petitioners argue that there was a knowing use of perjured testimony.

But Greenglass' testimony at the point referred to was not as specific as petitioners now assert; he stated that he was not sure as to certain matters which he thought he had included in his first statement, but which might have been included in later statements (Nos. 111-112, R. 577). The fact that fuller cooperation may have come from *both* Greenglass and his wife subsequent to the arraignment does not mean that Greenglass falsified the degree of his earlier cooperation; and it clearly does not mean that the United States Attorney knowingly participated in securing any such falsehood. Moreover, the answers in question were elicited on cross-examination by defense counsel. Obviously the United States Attorney neither elicited the statements nor relied upon them.*

* In addition, we note that petitioners did not ask for production of the first statement, although Greenglass' hazy recollection of its contents might be said to have laid a foundation for such a request. See Nos. 111-112, R. 577-579.

b. The second allegation of knowing use of perjured testimony relates to Greenglass' testimony that, the day before he began to testify, he made from memory certain drawings of lens molds used several years before at Los Alamos in the atom-bomb project, and a cross-section sketch of an atomic bomb. Petitioners contend that it would have been impossible for someone of Greenglass' limited education to make these sketches at all, and certainly not from memory, that hence his testimony that he did so was false, and that the prosecution must have known it to be so.

But this contention cannot be the basis of a motion under § 2255. At the trial, petitioners, on cross-examination, had brought out the details of Greenglass' education (Nos. 111-112, R. 609-615), with the obvious purpose of persuading the jury that he had lied. In support of their renewed assertion of perjury, petitioners, on this § 2255 motion, presented the affidavits of four scientists who expressed the opinion that Greenglass, with his limited education as shown at the trial, could not have made the sketches (R. 113-123). But none of them claims to have known Greenglass. It follows that none was in a position to give an opinion about the quality of his abilities which, no matter what his education, may have been adequate for this purpose. Thus, what is phrased in terms of reliance by the Government on perjured testimony is in fact at best merely

a continuation of an attack on the credibility of a Government witness.

c. The third specification of allegedly perjured testimony relates to government rebuttal witness Schneider. He was a photographer. He testified that in May or June, 1950, Mr. and Mrs. Rosenberg and their two children came to his shop and had passport photographs taken. He was asked whether that was the last time he had seen Julius Rosenberg "before today," and he replied, "That's right." In fact he had been brought into the courtroom by an F. B. I. agent the day before he testified, and had at that time verified his previous identification of Rosenberg's picture.

Petitioners contend that the word "today" shows that the testimony was perjurious. But on cross-examination of Schneider at the trial, both court and counsel treated the question as meaning "before the trial" (No. 111-112, R. 1429, 1437). We think the court below was correct in its observation of this contention that "Judge Ryan [the district judge] was correct in ruling that there was not the slightest evidence that Schneider's testimony was intentionally false and that in any event it was on an immaterial point, i. e., identification of the Rosenbergs as persons whose pictures he had taken, since the Rosenbergs had not denied that they might have gone to his shop for that purpose, although Julius

Rosenberg categorically insisted that they were not *passport* pictures." (R. 336.)

2. A preliminary and sufficient answer to the various aspects of petitioners' contention that they were unable to secure a fair trial because of a mass of adverse publicity, some of it allegedly inspired by the prosecution, is that they have waited too long to object. It is not the function of a motion under Section 2255 of the Judicial Code to repair alleged mistakes made during trial which could, with reasonable diligence, have been avoided or corrected either by the trial court itself or by the ordinary processes of direct review. Cf. *United States v. Riccardi*, 188 F. 2d 416 (C. A. 3); *Barnes v. Hunter*, 188 F. 2d 86 (C. A. 10); *Keto v. United States*, 189 F. 2d 247 (C. A. 8); *United States v. Walker*, 197 F. 2d 287, 288 (C. A. 2), certiorari denied, 344 U. S. 877; *Meyers v. United States*, 181 F. 2d 802 (C. A. D. C.)

The only excuse petitioners offered for their failure to raise this point before or during their trial is that the degree of hurt being imposed on them could not have been revealed to their counsel "by the usual sporadic reading of an average newspaper reader in New York City" (R. 152). There is no reason to assume that the jurors were more than "average newspaper readers". In any event, a pressure so lightly felt by defense counsel is hardly an adequate premise for the conclusion that a fair trial in the community was at that time impossible. Contrast *Moore v.*

Moreover, in spite of the fact that no question concerning unfavorable pretrial publicity had been raised by the defendants, the trial court was careful in its *voir dire* examination to ferret out any hidden feelings of prospective jurors resulting from anything they had read, seen, or heard about the case, and to caution them against any future influences of this sort. This action served the dual purpose of weeding out the prejudiced and of getting across again and again to those who ultimately served the fundamental proposition that the case must be decided solely on the evidence presented in court. Cf. *United States v. Moran*, 194 F. 2d 623 (C. A. 2), certiorari denied, 343 U. S. 965; *United States v. Leviton*, 193 F. 2d 848, 857 (C. A. 2), certiorari denied, 343 U. S. 946; *United States v. Weber*, 197 F. 2d 237, 238-239 (C. A. 2), certiorari denied, 344 U. S. 834.

Thus, the trial record shows that jurors were repeatedly excused, either because they had some preconceived notions about the case (Nos. 111-112, R. 64, 135), or about capital punishment (*id.*, 58, 97), or some bias which they thought would have prevented them from deciding the issues on the evidence presented (*id.*, 57, 78; cf. *id.*, 63). Again and again, bases of possible bias were voluntarily disclosed by jurors who were permitted by the court to remain as jurors after assurances that they would not affect their ability to decide the case on the evidence presented in

court (*id.*, 56, 60, 61, 77, 102). Jurors were specifically questioned as to newspapers (*id.*, 63, 67-68) and columnists they read (*id.*, 71, 124), commentators they heard (*id.*, 71, 124), and Congressional Reports they may have seen (*id.*, 74). Significantly, when counsel for the Rosenbergs propounded additional questions for the prospective jurors after the court had concluded its interrogation, not once did he raise any question as to newspaper publicity concerning the case or the subject matter of the trial (*id.*, 85-90, 124), although one prospective juror had specifically pointed out that he had been so prejudiced by various newspaper accounts of the case that he did not feel he should serve (*id.*, 135).

In addition, immediately after the jurors were sworn, the trial judge very carefully admonished them, as he had done earlier (*id.*, 114), and as he did throughout the trial (*id.*, 114, 194, 847), not to read anything that was published concerning the case. Specifically, he stated (*id.*, 153):

* * * I admonish you now and I ask you to carry it with you at all times throughout this trial, not to discuss it with your fellow jurors, not to discuss it with anybody at home, not to discuss it with anybody, not to permit anybody to discuss the case with you, and, of course, not to read a newspaper, read anything in a news-

and execution of the judgments of conviction . . . pending the determination of said application for a writ of certiorari by the Supreme Court of the United States on condition that said application for a writ of certiorari be perfected on or before March 30, 1953." However, the court added the further provision that if the petition for a writ of certiorari should be filed on or before March 30, "the stay above granted shall continue until otherwise ordered by the Supreme Court of the United States." Since the condition of this latter provision has been fulfilled by the filing of the petition on March 30, the stay granted by the Court of Appeals will continue pending the order of this Court. We therefore respectfully suggest that if this Court denies the petition for a writ of certiorari, as we contend it should, it would be appropriate at the same time to vacate or terminate the stay.

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APRIL 1953.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1952

No. 687

JULIUS ROSENBERG AND ETHEL ROSENBERG,

Petitioners,

vs.

THE UNITED STATES OF AMERICA

APPENDIX TO PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR
THE SECOND CIRCUIT.

"The Scientific Techniques and Theorems for Study and
Evaluation of Pre-Trial Publicity as Producing Commu-
nity Prejudgment."

EMANUEL H. BLOCH,

JOHN F. FINERTY,

Counsel for Petitioners.

65-57236-1598
Enclosure

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APPENDIX TO PETITION

"The Scientific Techniques and Theorems for Study and Evaluation of Pre-Trial Publicity as Producing Community Prejudgment."

Introduction

In application to vacate the sentence it was claimed by the petitioners that the publicity in the press and radio before and during the trial was of such an order as to make it impossible for the jury to render an impartial verdict. It was maintained that the attitudes of the community, and therefore of the jurors who are members of the community, must have been affected by the material in the mass media. In order to support this contention the petitioners assembled the pertinent newspaper material on the case, and on the issues which inhered in it, and claimed that both by virtue of its volume and its content, community-wide attitudes hostile to the defendants were created. That this and much more material exists, in not only newspapers but in other communication forms, as in periodical literature, as in radio and television script material, etc., has not been disputed.

An offer of proof was made of testimony from an "expert in the area of mass psychology and mass psychological reaction with respect to the effect upon the public of the voluminous pre-trial publicity which preceded the trial of these petitioners" (R. 242). The offer was rejected. The Court of Appeals approved the refusal "to grant a hearing to receive such opinion evidence" (R. 332-3). Since neither court gave grounds for such a ruling, it must be assumed that the ground was that a judge is sufficiently expert to draw his conclusions unassisted, or that the subject is not one within the area of an established science, and hence such testimony is not admissible under the opinion rule. The purpose of this Appendix is to demonstrate the complete absence of validity of such assumed grounds, and to show how scientific study and analysis, as a subdivision of the field commonly referred to as "social psychology", is necessarily appropriate on issues such as that involved here.

The following documentation is believed to demonstrate the existence of scientific tools and theorems, which are of crucial importance, and which must be taken into account, when tendered, as evidence claimed to show that "publicity made impossible the selection of an impartial jury",—the issue said by the Circuit Court to require more of a showing than the mere allegations of the petition (R. 331).

There exist the accepted tools of "Content Analysis" and "Opinion Analysis"; and there have been developed theorems and standards which make it possible to proceed, in a particular context, from a content analysis, to what public opinion effects are likely to be.

The unusual character of the subject matter involved is such that there happens to be available, for reference, studies that have actually been made, of the effect of mass media content on public opinion in the atom—atom spy area. This is set forth below at p. 12.

The next subdivisions of this Appendix present, in summary form, a study of the particular causative factors which research and study have recognized as having significance in translating "loaded" content into widely accepted ideas; that is to say, community prejudgments. There is also presented a study of the general social psychological framework, which is the basis of the effectiveness of particular causative factors. The objective validity of this "framework" and the validity in selection and description of the "particular causative factors" is illustrated by the summary of a field study that was made in respect of a subject, not unlike the present subject of study.

If the content of the media of mass communication, in a particular situation, is such as to bring into play several of the particular causative factors, in relation to a framework susceptible to the operation of such factors, it may be concluded that a situation will have been brought about where a defendant would have little or no hope for expecting "that one juror rather than another would be more likely to be influenced, consciously or unconsciously, by his preconceptions" regardless of whether the jurors "affirmed, in answer to inquiry by the trial judge, that they were prepared to determine [his] guilt or innocence solely on the

basis of evidence produced at the trial". *Delaney v. United States*, 199 F. (2d) 107, 116. Expert opinion then, would or should be admissible to show whether, in a given situation, the influence of "preconceptions as to probable guilt, engendered by pervasive pretrial publicity" (id. p. 113) is likely to be fatally prejudicial.

It is evident, moreover, that with or without the aid of relevant studies in the particular field which are herewith presented, a court which was familiar with the significance of the particular causative factors known to the science—particularly those denominated as "prestige-suggestion" "the majority-prestige effect" "selective perception and retention" and the others, would discern prima-facie evidence of probability of prejudice, in the exhibits tendered in the petition, at least to the extent required to make clear the necessity for granting a hearing. Moreover, realistic consideration of the general social-psychological framework, in particular, the recognized tendency to release fear-generated aggression against press-created stereotypes: the pattern known as "scapegoating",—would support the conclusion, in the context of the particular exhibits, that irretrievable prejudice was unavoidable.

I. THE TECHNIQUES

A. Content Analysis as an Established Science

Judgment as to the probability of an effect on attitudes being created or reinforced by mass media cannot be made with accuracy by the layman. That the counsel for the defendants himself did not realize the extent to which such publicity may have had an effect is itself in part a function of this fact, and in part a function of the fact that not until such material has been assembled and its bulk and content perused could such a judgment reasonably be made. It is maintained that, just as the counsel for the defendants was unable at the time to judge the effects of the paper reports on community attitudes, it is impossible for the court to judge, without a hearing at which expert opinion is offered, that such effects may not have been operating.

The analysis of communications material¹ has during the past ten years developed into a field with special techniques and skills, which have been applied over and over again for manifold purposes. This field, usually called "Content Analysis", has enabled social psychologists to analyze, as Dr. Berelson puts it "the objective, systematic and quantitative description of the manifest content of communications" (Berelson, *Content Analysis*, Glencoe, Ill. 1952, p. 18). The rapid growth of the field may be in part illustrated by the fact that in the period from 1946-50 the number of content analyses published more than doubled the previous five-year period. In his book "Content Analysis", Dr. Berelson lists more than three hundred references in his bibliography.²

It is unnecessary to list here the various subject fields to which content analysis has been applied. It may, however, be pointed out, that in cases similar to the one under discussion, it has proved a valuable tool. One example of such usage is the study by Dr. Joseph Klapper and Dr. Charles Glock of Columbia University, published in the *Scientific American* 1949.³ It is significant that the study was requested by six leading men in the physical sciences, attesting to the understanding that men who are themselves in the field of science have of the necessity for applying scientific techniques to determine the content of mass media, and their confidence in the methods of social psychology in analyzing and evaluating material of this order.

¹ By this is meant simply the media of mass communication: newspapers of general circulation, radio, and television broadcasts.

² Free Press, Glencoe, Ill., 1952.

³ The Bureau of Applied Social Research of Columbia University was asked by *Scientific American* and six eminent scientists to conduct a study of the press treatment of the *Condon* case. The scientists were: Harrison Brown and Harold C. Urey of the University of Chicago; Philip M. Morse of the Massachusetts Institute of Technology; George B. Pegram, Dean of the Columbia University Graduate Faculties; Charles Lauritzen of the California Institute of Technology, and John C. Warner of the Carnegie Institute of Technology. This "content analysis," in which the material is classified according to objective criteria and thus rendered susceptible of statistical description was published as *TRIAL BY NEWSPAPER*, by Joseph T. Klapper and Charles Y. Glock, *Scientific American*, 1949, Vol. 180, pp. 16-21.

The study referred to is, of course, just one of many that have applied the techniques of social psychology to a specific issue treated in the media. Studies of extended duration and broader scope and greater significance have also been conducted. For example, during the past war, content analysis was employed by several government agencies charged with responsibilities in the field of mass communication. In the Library of Congress was located the Experimental Division for the study of Wartime communications under the direction of Dr. Harold Lasswell of Yale University, whose purpose was to conduct a "World Attention Survey" through analysis of major newspapers. A similar project under foundation sponsorship was the Research Project on Totalitarian Communication under the direction of Dr. Ernst Kris and Dr. Hans Speier (presently with the Rand Corporation). The Media Division of the Office of War Information conducted content studies of the treatment given various war-related problems in newspapers, magazines, radio programs, newsreels and even the comic strips. One of the major applications of content analysis in Washington was made in the Analysis Division of the Foreign Broadcast Intelligence Service (Federal Communications Commission) which prepared weekly and special reports on the broadcasts to this hemisphere from foreign countries.

Finally, the Organization and Propaganda Analysis Section of the Department of Justice employed content analysis techniques in its investigation of the propaganda output of various suspect organizations and individuals. In their attempt to establish a parallelism between such propaganda and the propaganda of enemy countries, the Justice Department took into court exhibits based upon content analysis and had them accepted as legal evidence requiring the testimony of experts. (References in this and preceding paragraph to Lasswell, propaganda detection and the courts, in Lasswell and Leites, the language of politics (Stewart, 1949).)

In addition, content analysis has been given commercial applications. For example, commercial content analysis is available from Press Intelligence Inc. in Washington, D. C. Fortune Magazine in 1944 sponsored a content analysis of

the labor press and General Motors Corporation employed content analysis in the "My Job Contest" reported in 1950 by GM's Research Director.

It is asserted that the material presented above, taken together, demonstrates that the judgment of the content of mass communications and their manifest import is indeed the province of the specialist. While laymen may make guesses this way or that about the effective content of a series of newspaper stories and headlines, techniques have been developed which make it possible to assess objectively the nature and magnitude of communication content relevant to a specific issue. Where important issues are at stake, it is the obligation of the courts to bring to bear on the problem the best opinion available, and the most advanced techniques known to science before passing judgment on a matter beyond the judgmental competence of the layman. Thus, it is held, that expert testimony is required, if a fair evaluation is to be made, as to the actual character of the content of the publicity before and during the trial.

B. Opinion Analysis as an Established Science

If it were possible for the layman to decide, without the use of special techniques, what the given state of opinion is on a particular subject, it would indeed be unnecessary for the payment of millions of dollars to experts in order to find this out. Thus, the very existence of this branch of science urges the necessity of its employment in the case at hand. Counsel for the petitioners may state that the community attitude was indeed prejudicial and the prosecutor may argue that it was not. But only the trained expert can be trusted to advise on this issue. Lest it be thought that the estimation of the state of opinion on any issue is an easy matter for the layman to judge, it is of value to cite some of the investigations made by social psychologists to determine this fact. Several such investigations were conducted by Professor Travers,⁴ then of Columbia University. Using students as subjects, he attempted to find out to what

⁴ Archives of Psychology, 1943.

degree they were able to judge the opinions of others with whom they had been working. He concluded:

"The errors in individual judgments of group opinion were very high, even concerning the group *with whom the subjects had been working* . . . Several judges expressed surprise when informed of the error they had made. Confidence which many feel in their ability to judge group opinion is largely unjustified."

"The present study suggests that people should show more caution before asserting that the opinion of any group is either this or that, even in cases where there has been close contact between the individual and the group . . . people have not realized how difficult it is to make accurate judgments (regarding group opinion) just as thirty years ago they did not realize how difficult is the task of judging personality."

Travers went on to determine to what extent it was possible to estimate even the knowledge of a group, and here likewise he found individual judgment inadequate. Individual judgments of group knowledge, he finds, are highly unreliable and he urges that those, like educators, who need to know the state of knowledge of a group, refrain from relying on their own judgments but utilize appropriate techniques for such measurement.

In an even more compelling study by Professor Wallen of the University of Cincinnati, reported in 1943 in "Individual Estimates of Group Opinion," Vol. 17, P. 269 (1943), *Journal of Social Psychology*, the capacity of individuals in a small community to judge the state of opinion in that community was investigated. Asking the subjects to estimate the state of opinion in three questions of current concern, Dr. Wallen concludes:

"In summary, we have found that in a small, well-knit college community, where a high degree of social interaction should favor accurate estimates of group opinion, considerable variability existed in such estimates . . .

"Correlations between absolute errors made on the three estimates were so low as to lead to the conclusion

that the individuals studied showed no tendency to maintain constant levels of accuracy or inaccuracy in their estimates."

While it may be freely admitted by the court that it is difficult, if not impossible, for the ordinary citizen to estimate public opinion on a given issue, they may feel further that it is not possible for the expert to do so. In spite of the vast research on attitude formation and change, in spite of the fact that every day in the year studies are undertaken to measure attitudes in some area by public opinion experts, the court may feel that the business of estimating public opinion is not a science and that the expert may be as wrong as the layman.

Among the ordinary public this view has recently received some impetus from the failure of the Polls to predict the 1948 election. This failure has provided a veritable field day for the critics of social psychology and led to all sorts of wild generalizations about the inaccuracy of attitude measurement methods. Interestingly enough, however, such a development has not taken place within the field, nor among the users of attitude measurement. Today, its use is more extensive than ever among those who are familiar with its methods. To hold that the techniques of estimating attitudes are not scientific because in one such situation they failed to work, is akin to claiming that there is no science of meteorology, if it rains when the weatherman forecasts sunshine.

Since the record of those engaged in attitude research is probably unknown to the court, it is worth quoting from Dr. George Gallup's report to the Iowa Conference on public opinion after the failure of his predictions and those of the other polls. Says Dr. Gallup:

"The performance of sampling or cross sectional polls in the 1948 election should be viewed against the background performance recorded in the years since 1935 when polls were first established on a continuing basis.

"During this period a total of 512 election forecasts were made by some twenty polling organizations

operating in twelve democracies of the world. In this country alone, a total of 446 forecasts have been made in this fourteen year period.

"The average error in these forecasts—including those made in the presidential election of 1948—is approximately four percentage points. In short, poll predictions based upon the vote for all parties have on the average varied from absolute accuracy by this average degree in elections not only dealing with candidates but those dealing with issues as well—referenda issues. The winners have been predicted correctly more than eight out of ten times."⁵

Since the accuracy of the techniques developed by social psychology for the measurement of attitudes is well established in the field, and because in probably no other field has human behavior been predicted with such a high degree of accuracy, the status of the field of attitude measurement has suffered no setback among professional users of attitude research because of its failure in the 1948 elections.

It is, of course, obvious that in the case at issue no such precise measurement is required as is the case in an election poll. Nor is it necessary to predict what attitudes *will be*, but merely to estimate what they *have been*. Needless to say, techniques which have been able to perform the harder task with the degree of accuracy described by Dr. Gallup, can certainly be presumed to be capable of performing the far simpler task of estimating the general climate at a given time in a particular community.

It may be argued by the court that such estimates cannot now be undertaken because we cannot conduct a survey to find out what people thought in 1950 and that consequently the foregoing arguments concerning the accuracy of public opinion techniques have little relevance to the situation. In order to dispel doubts as to the availability of data for experts to analyze, let it be stated at once that during the period in question, surveys of public attitudes were systematically taken by established research organizations in the ordinary course of their operations. Many of the ques-

⁵ *The Polls and Public Opinion*, Henry Holt, New York, 1948.

tions asked of the public have a bearing on the specific issues involved in this case. The American Institute of Public Opinion, the National Opinion Research Center, the Fortune Poll and the various regional polls have accumulated data which bear on the topic at hand. Some of these studies have not been published, and, as a consequence, data are not now available. But there is every reason to believe that the files of these organizations would be opened up for examination by qualified experts, if the court should declare that it was relevant for determination of the climate of opinion in the case at hand. Consideration of these data by qualified social psychologists would provide the court with an opportunity to determine whether indeed the attitudes of the community were of the order set forth in this petition.

In another section we have presented the theory of attitude formation and change accepted by present day psychologists. In so doing it has been our intention to focus the attention of the court on the complexity of the problem and the need to determine in the specific instance whether or not pre-conceptions held by the jurors must have affected critically their perception of evidence presented. The study of attitudes is indeed no area for the operation of the untrained. It is especially true of this field that those who for the purpose of their day-to-day operations have to measure public attitudes in a given area, turn to experts for the conduct of their operations.

The Uses of Public Opinion Research

This report sets forth below some of the results of national public opinion polls taken during the period prior to that covered by Exhibits II-XV. This material makes a significant initial showing concerning the nature of the social climate in which the case occurred.

Published data from such research organizations as American Institute of Public Opinion and National Opinion Research Center do not include evidence for local communities, although the data exist in their files. Facts having bearing on the specific opinion climate of the New York City area are available in the files of these organizations,

and may be the subject of expert evaluation and interpretation.

That such public opinion research is considered authoritative, not only by scientists, but by business, industry, labor and government agencies (the government made particular widespread and significant use of this material during the war) is amply documented.*

C. Opinion Analyses in the 1945-1949 Period Which Have Significance

The following material has been culled from the published public opinion data, and is presented as an indication of the developing climate of opinion before the Rosenberg trial.

To illustrate how poll data can be used to answer a question on the direction of change of public opinion, let us examine an analysis made of an earlier period of atomic development, that is up to 1948, on "Atomic energy or the atom bomb: a problem in the development of morale and opinion" (By Kay, L. W. and Gitlin, I. J., Vol. 29, *J. of Social Psychology*, p. 57 (1949).)

As evidence on the issue of whether there was an increase in fear of the atomic bomb (rather than enthusiasm for atomic research) the study sets forth:

"An interesting group of questions has to do with whether the development of the atomic bomb was 'good' or 'bad'. In September, 1945, an American Institute of Public Opinion question:

'Do you think it was a good thing or a bad thing that the atomic bomb was developed?'

showed:

69% good.

17% bad.

14% no opinion.

* See Mildred Parten "Surveys, Polls & Samples" (Harper, 1950).

"By December of that year, when the same organization asked:

'Do you wish that the atomic bomb had never been discovered?'

52% "were glad it had been discovered."

34% "wished the discovery had not been made."

14% "expressed no opinion."

"In February, 1947, the National Opinion Research Center used this approach:

'In the long run, do you think people everywhere will be better off because somebody learned to split the atom?'

37% "thought people would be better off."

38% "thought people would be worse off."

6% said it would make no difference.

19% "didn't know" (p. 60-61).

The data above clearly reveals that fear of the atomic bomb increased sharply, during the period studied.

To turn now to the preliminary period, that is, leading up to the Fuchs arrest, we find evidence for the rise of anti-Communist feeling by examining the increase in those who favored registration with the Justice Department of all Communists. While in August 1948, 63% of the population held this view, by December 1949, the proportion in favor of the measure had risen to 77% according to surveys done by the American Institute of Public Opinion. By December, 1949 the anti-Communist feeling in this country was so strong that 68% of the population endorsed the idea that membership in the Communist Party "should be forbidden by law".

Likewise, the concept of Russia as an aggressive power out to "rule the world" was more and more coming into existence as the public image of that country. The proportion who felt that Russia was trying to build herself up as the ruling power of the world, rose from 58% in January 1946 to 70% in January 1950, according to the AIPO.

Given this popular feeling against Russia and Communism, it is apparent that there was an enormous initial

difficulty, prior and independent of the 1950-51 publicity which petitioners claim was prosecution-inspired, in obtaining a group of twelve citizens who would not see the charge against the petitioners in the light of these views.

It has likewise been maintained in this petition that the terrors of atomic warfare had caused a feeling of insecurity and uncertainty which rendered the public all the more susceptible to the effects of newspaper publicity on these issues. For example, in all surveys concerning the use of the atomic bomb, large majorities have indicated that they expected such an attack on the U. S. in case of war. According to a survey by the National Opinion Research Center of the University of Chicago, taken in October 1949, 77% of the population believed that A-bombs would be dropped on the U. S. in case of war, while only 12% felt that they would not be dropped.

The greater incidence of such fears in cities like New York is dramatically illustrated by an AIPO survey in December, 1950 which asked a national cross-section of the population whether they felt their own community would be subject to atomic attack in case of another war. Those who thought there was a "good chance" that their community would be attacked was 16% in small towns, 25% in small cities and 41% in cities over 100,000. The regression clearly indicates that if the figures for cities like New York were available, the proportion would be considerably higher than those cited.

The greater insecurity about atomic attack in New York is likewise indicated by the AIPO study in January, 1950 which asked the population if they "had given any thought as to whether you and your family would be in possible danger from a bomb attack in case of war." While in the non-coastal communities 53% said they "had thought about" this, in the coastal areas 63% gave this reply. In the face of this data, one wonders to what extent New Yorkers have been worried about such attacks, situated as they are in a coastal area in the largest city in the country. It would seem as though fears, insecurities and susceptibility to suggestion from authoritative sources about issues involving atomic war must have been greater in this city than anywhere else in the country, an atmosphere hardly

conducive to a fair trial for persons accused of passing atomic secrets to Russia, even without the prosecutor-inspired pre-trial incitement said to have taken place here.

The influence of the media during the period from 1945-49 directing blame toward "atomic spies" is sharply illustrated in the comparison of certain findings in these years.

If we look back to a survey done in October, 1945 by the National Opinion Research Center, we find the following question asked:

"Do you think that it will be possible for the U. S. to keep the secret (of the atomic bomb) permanently or will other countries find out for themselves how to make the bomb?"

In answer to this question, 83% of the population stated that they thought that other countries will find out for themselves how to make the bomb, 13% said that the U. S. could keep the secret permanently and 4% said they didn't know.

However, four years later (after the 1945-49 preliminary crop of "atomic spy" stories) we find that NORC, having asked the public if they believe Russia is now able to make the bomb, and finding that 65% believed that she could, then asked this group "How do you account for their being able to make it so soon?" In response, we find that 37% of the people blame "carelessness", "spies, and information leaks". This is the most frequent response given to the question. Thus, while a huge majority in 1945 *never had any doubts* that Russia would sooner or later learn how to make the bomb, their success is, four years later, attributed to "spies", etc.

Of course, it may be argued that the public never expected Russia would make the bomb *so soon*, and are blaming the spies for the speed of their success. This notion is dispelled by the 1945 survey which also asked "How long do you think it will be before they find out the secret—a year or two, five years, ten years or more?" Only *seventeen percent of the population thought it would take longer than five years, the vast majority feeling that other countries would have the secret in five years or less.*

Thus, it may be seen how the sensational publicity about atomic spies has succeeded in changing the public's mind about the secrecy of atomic information. If the vast majority of the public expected other countries to find out the secret within five years, how then, four years later, could so many fasten the blame on "spies and information leaks"? The answer, it would seem, lies in the tremendous influence of the media in levelling blame on so-called spies for Russia's success with atomic weapons development. An interesting example of how the mind of the public is unconsciously influenced by the press is afforded by another comparison of the 1945 data with the 1949 data. In 1949 NORC also asked respondents who thought that Russia now had the bomb: "Did you expect that they would learn to make it this quickly, or did you think it would take much longer?"

We have seen that in 1945 only *seventeen percent* of the population thought that it would take longer than five years. However, four years later, *some 43% of the population said that they had thought it would take "much longer"*. Here, we submit, is a clear indication of the systematic indoctrination of the population with the notion that "atom spies" have been helping speed up the Russian bomb program. Although in 1945 the population was overwhelmingly of the opinion that other countries would have the secret within five years, by 1949, almost half say that they had expected it to take "much longer" and most frequently blame spies, etc. for the Russian success. Thus, the publicity about the atom spies has not only succeeded in affecting opinions but has managed to convince a good proportion of the people that they themselves had *expected* Russian success to take much longer, even though we *know* from empirical data that they had no such expectations.⁷

⁷ Lest it be thought that two such surveys are not comparable because different people were interviewed, it has been long established that no matter who is interviewed, if the samples are equivalent the results are accurate within a few percentage points. It may be added that these two surveys used exactly the same methods and were conducted by the same organization, so the reliability of the data is unquestionable. Whatever deficiencies may have existed in one survey existed also in the other, and the comparability of the data is therefore in no way affected.

II. THE THEOREMS AND STANDARDS

Preliminary

By research and experimentation, the science of social psychology has constantly sought to help bring about an understanding of how, among other things, the social attitudes and generally held opinions and prejudices encountered in society are developed. Sufficient data is available to establish that certain causative factors are particularly important in explaining the production of these special processes are more or less effective, dependent upon the general frame of reference of the community in which they operate. Furthermore, general studies of how the individual gets his ideas and values will show how the press tends to enforce conformity, particularly where, as in large cities, mass media are a substitute for personal experience; they also show how certain types of value judgments tend to create stereotypes; and in particular, in times of stress and uncertainty, self-preservative hostility facilitates the creation of scapegoats.

A. Particular Causative Factors

Each of the following represents a particular type of causative factor which the expert will recognize as especially critical in the translation of media suggestion to mass acceptance. And each of the following, moreover, as is demonstrable from the Exhibits offered with the original motion to vacate the sentence, was brought into play in the pre-trial period on the Rosenberg-Sobell case.

i. Prestige-Suggestion

When a person is poorly informed in an area, and is presented with new material in that area, he becomes particularly susceptible to the effects of prestige; he will tend to accept the views provided by leaders, authorities, experts, officials, etc., particularly of leaders in that area. In music, the opinion of a symphony conductor will be influential; in a political matter, the statements of a govern-

ment official will be influential. A person who lacks firsthand knowledge needs to make new and contrary material meaningful in order to cope with it, and the suggestion made by the prestige personality becomes the anchor, or source of reference points. A citizen will follow his leader even when other sources of interpretation are available. As Krech and Crutchfield⁹ explain, "The mental set toward the person making the suggestions may be of crucial significance and can evoke a need to agree even before the suggestion is made by the speaker." (p. 342)

The effectiveness of suggestion by prestige has been confirmed in numerous studies. H. B. Lewis,¹⁰ in an experiment on the operation of prestige suggestion, concludes "When it was effective the suggestions usually operated to redefine an ambiguous situation. The subjects did not simply 'change their minds'. Rather the slogans they were judging appeared in a new light, acquiring a new meaning, and thus demanded a new judgment." The "prestige" of a suggestion, the source of it, functioned to provide context for the statement. It is often in terms of this context that the statement had its meaning."

T. E. Coffin¹¹ did a study on "Suggestibility and levels of difficulty" in which mathematical problems of graded difficulty were used with subjects with various mathematical backgrounds. He found, "Thus we may say that there is a tendency for suggestibility on problems to increase with the difficulty of the problems" . . . "both the number and percentage of suggestion-responses decreases with increasing years of training."

It is common knowledge that Mr. J. Edgar Hoover, for example, is widely regarded by virtue of his office and experience as the individual having the greatest "prestige

⁹ *Theory and Problems of Social Psychology*, Krech D. and Crutchfield, R.S.; McGraw Hill, 1948.

¹⁰ From *Studies in the Principles of Judgments and Attitudes*, IV, The Operation of Prestige Suggestion. *J. of Social Psychology*, 1941, XIV, 229-256, cited by Newcombe, J. and Hartley, E. (p. 232-243).

¹¹ From T. E. Coffin, "Some conditions of suggestion and suggestibility", *Psychol. Monog.*, 1941, LIII, (4), cited in Newcombe, T. and Hartley, E., *Readings in Social Psychology*. Holt, Co., New York.

value" in the area of espionage activity, a subject on which the public is not generally informed or capable of securing first-hand information. In the light of this unusual significance attaches to the "release" by the Attorney General of Mr. Hoover's pre-trial conclusion as to the guilt of the petitioners (R. 161-3).

ii. The "Majority-Prestige" Effect

The effects of group attitudes on the views of the individual have important application in the Rosenberg-Sobell case. The definite anti-Communist feeling in the community was *increasing* during the pre-trial and trial period, as has been shown above in the section on the Poll Data of that period. The type of pre-trial publicity initiated with the McGrath-Hoover press release was calculated to and did establish an initial, and continuing judgment of the overwhelming majority of the community that the petitioners, who had so authoritatively been declared to be guilty, must in fact be guilty. But even those who had not acquired a strong bias would tend to "go along with" the others, not necessarily from a deliberate "bandwagoning", but from a lack of insight into their own processes.

An influence upon the individual's judgment occurs when he knows, or believes he knows, the attitude which prevails in his group. The group opinion will then tend to suggest his own. T. E. Coffin¹¹ says, "The effectiveness of group opinion as compared with expert opinion appears also to depend on the issue being judged. The more closely the issue relates to 'social norms', the more influential the group opinion, while problems relating to 'personal norms' are less influenced by group judgments."

Asch, S. E., Block, H. and Hertzmann, M.¹²⁻¹³ showed the effects of "majority prestige". Subjects were asked to rank ten professions for: intelligence required, social usefulness, conscientiousness, stability of character, and ideal-

¹¹ Some conditions of suggestion and suggestibility, *Psychol. Monogr.*, 59 (4).

¹²⁻¹³ Studies in the principles of judgments and attitudes; II. Determination of judgments by group and ego standards. *J. of Social Psychol.*, 12, 433-465.

ism. Group I, the control group, was given no suggestion; Group II were told that "500 students" ranked politics top; Group III were told that "500 students" ranked politics lowest; Group IV were told that "500 students" ranked politics top in social usefulness and lowest in intelligence required. The resultant ratings of politics is reproduced below (the smaller the number the higher the rating).

Group	Average Ranking	
	For Intelligence	For Social Usefulness
I	8.1	8.2
II	4.1	4.1
III	9.1	6.5
IV	8.9	4.9

Despite the striking results above, (note particularly, Group IV, where the suggestion is able to raise one rating while lowering the other), when the subjects were interviewed after the experiment, most of them *denied influence by suggestion*. They were not lying but, the subjects were not aware of a change in their response.

In "The effects of group pressure upon the modification and distortion of judgments," S. E. Asch¹⁴ studied the effect on individual judgment of group pressure toward perceptions *contrary to fact*. In a clearly structured situation, that is, matching the length of a line with one of three other unequal lines, the group of eight confederates were coached to make false judgments at pre-arranged points in the procedure. The subject, a ninth person in each group, would therefore be a minority if he judged correctly. It was found "There was a marked movement toward the majority. One third of all the estimates in the uncoached group were errors, and these were identical with or in the direction of the distorted estimates of the coached majority. The significance of this finding becomes striking in the light of the virtual absence of errors in the control group, the members of which recorded their estimates in writing."

¹⁴ In *Readings in Social Psychology*, Swanson G. Newcomb, T. and Hartley E. Holt, 1952, p. 2-11.

It was found that the distortions produced by the effects of the majority were of three types:

1—*Distortion of perception*—are not aware that their estimates have been displaced or distorted by the majority; these subjects report that they came to perceive the majority estimates as correct.

2—*Distortion of judgment*—subjects reach a decision that their perceptions are inaccurate, and that those of the majority are correct; these subjects suffer from primary doubt and lack of confidence; on this basis they feel a strong tendency to join the majority.

3—*Distortion of action*—these subjects suppress their observations and voice the majority position with the awareness of what they are doing." (p. 6-7)

Only the third type here can be regarded as lying in the situation, that is could be analogized to those few in the community who are *not* extremely anti-Communist in their attitudes, but voice what they observe to be the prevailing sentiments. The others are guilty of no such hypocrisy, but are genuinely unaware of how their views have been molded.

Asch concludes that "Independence and yielding are a joint function of the following:

(a) The character of the stimulus situation. Variations in *structural clarity* have a decisive effect; with diminishing clarity of the stimulus-conditions the majority effect increases.

(b) The character of the group forces. Individuals are highly sensitive to the structural qualities of group opposition. In particular we demonstrated the great importance of the factor of unanimity" (pp. 10-11).

iii. Labels as Providing Frames of Reference

In the "trial by newspaper," which is reflected in Exhibits II-XV, many labels were applied to the defendants, such as Communist, red, foreign, Jew, radical, A-spy, and so on, any or all of which may have colored the jurors' perception of the evidence.

With regard to the use of labelling words, T. Newcomb says,¹⁵

"The use of language has much to do with the perception of things in one frame of reference rather than another. The identification of a perceived object by means of a word may determine which of many possible frames of reference is supplied. For example, if you first hear John Doe referred to as a 'shady politician' you are apt to think of him quite differently than if he had first been referred to as a 'kind father' . . . Or individuals who are presented in an unfavorable light may be identified as foreigners, Negroes or Jews. The consequence is that individuals come to be judged according to the frame of reference associated with the label; a prejudice has been created . . . As Walter Lippmann long ago pointed out, we have many attitudes toward statesmen, government and peoples with which we have no direct contact at all. We judge them not as they are, obviously since we have no means of knowing all the 'facts.' We are dependent on second hand reports which come to us chiefly through the medium of words. If an event, particularly one which the individual has not observed himself, is first presented in terms of a given word it tends to be judged in the frame of reference called up by that word. Thus the attitude toward it may be quite different from what it would have been if a different word had been employed."

H. G. Birch,¹⁶ in a study in which statements were labelled as Fascist, Communist, Reactionary, Liberal, stated with regard to the shifts in opinion produced by the labels.

"On the basis of the results obtained it appears that the basic effect obtained by the application of a label to a given social position is the establishment of a given

¹⁵ T. Newcomb, *Personality and Social Change*, N.Y., 1943, Dryden Press.

¹⁶ H. G. Birch, "The effect of a socially disapproved labeling upon a well-structured attitude." *J. of Abnormal and Social Psychol.*, 1945, 40, 301-310.

initial direction of thinking. This set or tendency to approach a problem in terms of a given referential framework arouses selected stereotyped patterns of response available to the subject. The function of the label then is that of a stimulus which establishes the subjective matrix within which the objectively available materials are perceived" (p. 310).

Newcomb¹⁷ cites the study by Professor Stanley Sargent of Barnard College in which he studied the words used by the Chicago Tribune and the effect of such words upon the readers of the newspaper. The results indicated that words used by the Tribune to describe policies and individuals which it disliked were words which were likewise disliked by the readers, *even when the words were taken out of context*. Newcomb points out that these words prepared the ground for unfavorable attitudes. In another part of his study Sargent compared the Tribune with the New York Times in the use of words to describe the same event. A close relationship was discovered between the words used by the newspaper and its attitude toward the issues. When subjects were again asked to give their attitudes toward the words (not knowing whence they were taken) again a correlation between the attitudes toward the words of the readers of the particular paper and the words used by the paper in expressing its own attitudes was demonstrated. Newcomb evaluates the results of the study as follows:

"The conclusion to be drawn is not that these two papers were consciously attempting to influence public opinion favorably or unfavorably (on this point we have no evidence) but that the consequence of the use of such words was to arouse a readiness to respond favorably or unfavorably, regardless of the objects to which they applied."

In the light of the opinions expressed by the experts cited, it seems pertinent to ask what must have been the effect of the continual headline references to the petitioners as "atom spies", "red A-spy", "fleeing radar expert nabbed

¹⁷ *Op. cit.*

as A-spy", "passing atomic secrets to Russia", "plotting to feed secrets to Moscow" and the like.

iv. Selective Perception and Retention

It is by selective perception and retention that bias makes its effects felt in the trial itself. When the juror has a strong set in one direction and evidence, for and against, is put forth, material on one side will be seen as "less important", "less impressive", "less believable" or not seen at all, and thus not brought to bear upon the decision.

With regard to this problem Krech and Crutchfield¹⁸ say,

"Because perception is functionally selective, and because beliefs and attitudes play a role in determining the nature of this selectivity, new data physically available to an individual but contradictory to his beliefs and attitudes may not even be perceived."

Swanson, Newcomb, T., and Hartley, E. point out¹⁹ that,

"In a series of experimental studies beginning with the work of Bartlett, and carried on by a host of other investigators such as Margolis, Clark, Nodel, and Murphy, it has been consistently demonstrated that a person's perception and memory of materials shown to him are often distorted by his wishes, motives and attitudes."

Since many illustrations of this selectivity in perceiving have already been set forth elsewhere, only a few illustrative examples will be given here. O. Klineberg,²⁰ says in citing M. Zillig, "Einstellung Und Aussage," *Ztschr. f. Psychol.* 1928,

[Zillig performed an experiment to see the extent to which a previously formed social attitude may distort the facts.]

"In a preliminary survey of friendships within a classroom she (Zillig) discovered that certain children

¹⁸ *Op. cit.*

¹⁹ *Readings in Social Psychology*, Holt & Co., New York, 1952.

²⁰ *Social Psychology*, Henry Holt and Co., 1940.

were almost universally liked, and others disliked to the same degree. In the experiment proper she took an equal number of pupils from these two extreme groups, and had them stand up in front of the class and perform calisthenic exercises under her direction. She had previously instructed the 'liked' children to make mistakes, and had trained the 'disliked' ones to follow her instructions exactly. At the end of the experiment she asked the class to indicate which group had done the exercises correctly, and the majority of the votes went to the popular group. It seems unlikely that the children designated the favored group as superior even though they saw them make the errors. Zillig believes on the basis of conversations with them that they actually 'saw' the differences as they reported them." (p. 206)

E. L. and R. E. Horowitz,²¹ showed Southern children a picture of a fine home. When they were questioned later about the picture the children said that they "saw" a Negro woman engaged in some sort of domestic work, although this was not in the original. Klineberg (p. 207) notes that this is another example of how a stereotype determined a perception.

C. Goring²² showed that because of the popular belief that intelligent people have high foreheads, those who were judged intelligent were also "seen" to have high brows, although actual measurement showed the reverse relationship to hold true.

W. Stern²³ undertook a series of experiments on the psychology of rumor and testimony, and found a lower number of errors in the reporting of what was actually seen or read. The observer was not aware of his errors, and even when he was willing to take an oath upon his evidence, errors both of omission and of distortion still occurred.

Thus, persons such as jurors in a case involving emotion-

²¹ "Development of Social Attitudes in Children," *Sociometry*, 1937-38, No. 1.

²² *The English Convict*.

²³ *Beiträge zur Psychologie der Aussage*.

ally loaded issues tend to observe and to hear and to remember *not* what is presented, equally, from the contending sides, but selectively, in line with their pre-conception. Furthermore, this selective perception and retention occurs unconsciously.

V. Rigidity of Systems of Belief

A presiding judge may caution a jury to disregard improper labels which have been introduced in the trial, he may urge the jurymen to exert themselves to be fair, and he may even warn them against some of the sources of bias. It is therefore pertinent to say a word on the question of whether it was even possible to dispel from the minds of the jurors the frames of reference which had already been established by publicity, so that they might consider the evidence on its own merits.

While it has been presumed by the laymen involved in the trial that such a phenomenon was indeed possible, evidence from Social Psychology would indicate that the opposite hypothesis would be the more reasonable one to be presumed. The wealth of studies on attempts to modify frames of reference and attitudes previously established, show that this is, indeed, a difficult task, especially where the attitudes of the individual are socially sanctioned, and express the prevailing view of the community. Moreover, if the attitudinal area is one in which the individual has no first hand knowledge, the setting of a frame of reference through communications material may so affect the perception of the "facts" presented that they cannot be viewed apart from this frame of reference. If prestige symbols are in some way attached to the opinions rendered or the frame of reference set, attempts to induce judgments based on information alone are probably doomed to failure. To cite some of the results obtained in attempts to modify entrenched attitudes, one such example is the classic study by Watson and Hartman of Columbia University who selected strongly religious and strongly anti-religious students and then subjected them to intensive propaganda of the opposite view, presenting the arguments of the other

side and the basis for the view held by the opposition.²⁴ These scientists say in their conclusion:

"The experimenters ended with a marked sense of frustration. We had hoped to be able to demonstrate some effect of information *per se* (or of knowledge of the opponents reasoning) in bending a rigid set in one's religious outlook. One cause of man's faith in what is termed logic and scientific method lies in the belief that when all essential facts about a controversy are assembled these facts themselves will spontaneously point to one conclusion rather than another. In the face of such evidence, even the most powerful pre-dispositions presumably must yield. It seems, however, that most great issues are like ambiguous perceptual figures which permit more than one apprehension to emerge, or that the grand frames which encompass our mental life are restructured only when the organism experiences some powerful trauma. . . ."

In another study of the effects of propaganda Collier found that even when he trained students in the detection of propaganda through the analysis and discussion of specific propaganda items, these students were influenced by the propaganda they studied, in contrast to a control group who were not exposed to the material. Krech and Crutchfield²⁵ conclude from the Collier study that:

"Thus it appears that even though people may be warned against propaganda, may spend time studying its characteristics, etc., their beliefs and attitudes can still be shaped by the propaganda if it fits in with existing frames of reference."

vi. Summary: Probable Aggregate Incidence in Rosenberg-Sobell Case

At the time of the pre-trial period of the Rosenberg case, there was a unique convergence of psychological circumstances, which so interacted as to produce an unusual pres-

²⁴ *Journal of Abnormal Psychology*, 1939.

²⁵ See Krech and Crutchfield, *op. cit.*

sure situation on the community. These circumstances were (1) the effect of prestige pressures, provided by the public statements of government officials; (2) the effect of pressures toward increasing conformity to the group provided by the community-wide effect of public statements on this case and the prominence of certain other trials and investigations during the pre-trial period and the increasing level of anti-Communism in the community; and (3) the suggestiveness of the labels attached to the defendants by the communications media. This convergence of events, operating in a community beset by the special anxieties concomitant with the introduction and development of the Hydrogen bomb and the launching of a new Civilian Defense program oriented toward the possible imminence of atomic attack on New York, tended to produce in the Rosenberg jury the operation of (4) selective perception and selective retention, and established (5) a rigid mental set during the trial.

B. Relevant Aspects of Susceptibility to Media Suggestion

The effectiveness of the particular causative factors is enhanced by various conditioning circumstances.

An individual acquires *general* standards and views which become the frame of reference for his specific attitudes. The media of communication helps shape this general background.

The individual has a need to conform to his group, a need to find meaning in the world around him, and a need to channelize his emotional tensions. The media can determine the individual's *specific* attitudes under conditions in which the problem is unstructured, the individual has little first-hand experience with the issue, and is dependent on such second-hand sources of information.

The press in particular can shape the specific attitude by supplying this information in a colored manner, and by editorializing on the issue. Under these circumstances, the press creates over-simplified and over-generalized concepts, that is, *stereotypes*, which are accepted by the individual.

Under conditions of emotional stress, fear and anxieties cause hostility and aggressiveness. This hostility needs an outlet, and where the individual cannot find and attack the

true source of his problem, he will displace this hostility elsewhere. The individual, in so doing uses his available stereotypes as victims of scapegoating.

i. *Shaping ideas and values where first-hand information is lacking.*

Communication media are particularly effective as molders of opinion, (1) when the issue being dealt with is an unstructured one, with which the person has little or no direct experience, and (2) when the communication media are the only source of information as to an issue.

In his discussion of the kinds of issues on which media are likely to be most effective, Berelson says:

"Communication content is more effective in influencing opinion on new and unstructured issues, i.e., those not particularly associated with existing attitude clusters. The closer the opinion situation is to a *tabula rasa* the easier it is for the communication media to write their own ticket." (In Schramm, Ed., *Communication in Modern Society*, Un. Ill. 1948, p. 176.)

The persuasive and controlling role of the media is emphasized by Dr. Wilbur Schramm, Director of Institute of Communications, U. of Ill. (Cloc. Cit.) The fact that communications "confer status and enforce social norms is so well accepted that I shall not develop it here. . . . It is chiefly a taking over by the mass media of functions that in the smaller community were carried out by direct experience. The citizen used to know the norms and the leaders because he saw them in action. Now the mass media have the power, by describing norms of social action to suggest that any deviation from them is abnormal and anti-social."

As to what occurs when the media are the exclusive source of information Dr. Bernard Berelson (in Schramm, Ed. *Communication in Modern Society*, University of Illinois, 1948) says,

"This is of central importance; communication has effects upon converting opinion under conditions of

monopoly which are much greater than its effects under conditions of competition." (p. 179)

Among the media, the newspaper, in its dual role of conveyor and interpreter of information, is in a uniquely powerful position to form and color attitude.

As Daniel Katz points out in (*Annals of Academy of Political & Social Science*, 1947)

"In the world of social action, the newspaper has been the most important single medium in our culture for relating symbol to fact. In theory, the newspaper has a staff of trained observers and fact finders who constantly make contact with the real world to give accuracy to the symbols presented in the news columns. Though the newspaper has functioned surprisingly well, its limitations for fact finding are obvious. On many problems, research has shown that there is a wide discrepancy between the real world and the world of newsprint."

A. *Note regarding residual effect.*

The use of emotionally toned terms, and editorial comment, which indicate approval or disapproval of a person or policy, establish a residual feeling which long continues to influence the attitudes and biases of the readers. One example illustrating how this can be done is the study of A. D. Annis and Norman C. Meier²⁸ who "planted" in the daily student newspaper at the University of Iowa thirty carefully prepared editorials about W. M. Hughes, former Prime Minister of Australia. Half of the editorials were favorable, half unfavorable, to Hughes. Of the students who read the favorable editorials, 98% became favorably biased toward Hughes; of those who read the derogatory accounts, 86% became adversely disposed. Another test, four months later, revealed about the same views as the first test.

²⁸ A.D. Annis and M. C. Meier, "The Induction of Opinion through Suggestion by Means of Planted Content," *J. Social Psychology* 1934, 5:65-82.

A strikingly important point has been made in many studies of racial bias and prejudice, where the standards of judgment of the person may be based potentially upon the prevailing stereotypes and prejudicial attitudes toward a minority group, despite their own personal experience and contact with members of a minority group which give facts contrary to the stereotypes. It is well stated by the conclusion of Profs. Gardner Murphy and Rensis Likert, *Public Opinion and the Individual*, (Harpers, 1938),

"The individual acquires his prejudice against a minority group not primarily from contact with the minority group but from contact with the prevailing attitude toward that minority group."

ii. *Effect of Existence of Special Local Climate*

A study by T. M. Newcombe²⁷ illustrates the possibility of local climate differences with regard to a social issue.

Evidence was presented to the effect that in two student communities characterized by opposed attitudes toward a recent social issue, different kinds of information relevant to that issue were acquired and retained, with the result that the relationship between attitude and information in the two communities was strikingly different.

"The point that the writer would stress is simply that in *well defined* attitude climates certain determinants of information—probably the major ones—must be regarded as community engendered." The two communities "obviously differ as to the kinds of information made relatively inaccessible by the local attitude climate." (p. 300)

"... the process of acquiring and retaining information relevant to a controversial issue is dynamically related to the process by which an attitude toward it is acquired; that concern, usefulness, and opportunity operate as determinants of information; and that the manner in which these determinants operate is influ-

²⁷ Newcombe, T. M. *The Influence of Attitude Climate upon some determinants of information.* J. ab. soc. Psychol., 1946, 41, 291-302.

enced by the uniformity, direction and intensity of the attitudes of other individuals in the community—i.e. by the local attitude climate." (p. 901)

The local climate engendered by these special circumstances in New York in this period may well have influenced the process of the acquisition of information relevant to the present.

As has been shown by the poll data referred to above, psychological sensitivity to fear of the atom bomb was greater in metropolitan areas. [Evidence on whether it was particularly effective in New York would be available in the local break-down of this data.]

Among the exhibits tendered by the petitioners were such as VIII-A-27 "City Folks Fear of Bombs aids Boom in Rural Realty." and III-F-5 "Doom of 27 U. S. Cities by H-Bombs Envisioned . . . Physicist warns of Surprise Raid—New York in 'hopeless' category."

"If Soviets Start War Atomic Bomb Attack Expected on New York First." Jan. 8, 1951 p. e. (Ex XIII-E-1). "When Russians Strike It Will Be With Plenty of A-Bombs on New York and Washington, D. C." N. Y. Daily News, July 1, 1950. p. 3.

These stories, in the metropolitan press, focussing as they do upon New Yorkers as the victims of this imminent attack, create a higher level of fear in the New York community than elsewhere. The material in the exhibits, from these newspapers, which demonstrate the potential effects of the atom bomb, use as their model (including maps of imaginary devastation) the city of New York or the cities of New York and Washington, D. C.

That such pronouncements had been effective in producing anxiety is reflected by the press itself by such news stories as [Ex VIII-A-28] "War Perils Start Wave of Anxieties." Fears and anxieties are disruptors of critical ability, and an anxious community is susceptible to suggestive rather than structural, attitude formation.

iii. *Special Effect of Creating Stereotypes*

In Newcomb, T. and Hartly, E. Readings in Social Psychology, Holt & Co., N. Y., Lazarsfeld and Merton, point out:

"Complexities generally inhibit mass action; public issues must be defined in simple alternatives, in terms of black and white, to permit or organized public action . . . the commercially sponsored mass media indirectly but effectively restrain the cogent development of a genuinely critical outlook." p. 80

Walter Lippman first used the word stereotype to apply to this tendency to classify persons as cartoon-like figures. Once a stereotype is embedded in the attitudinal structure of a person (juror), mere contrary information has little effect in dislodging it; and it consequently exerts a controlling effect on specific judgments and perceptions of the group.

[The crucial reference points of these jurors include certain stereotyped attitudes and values which are also the essential items at issue in this trial. The attitudes are reflected in the picture presented by the press in convincing unanimity.]

The picture of the defendants, in the minds of the jurors, has them labeled with the negative stereotypes, the prejudices of the media. There is uniformly expressed the need for prosecuting the cold war; the need for secrecy in our plans and production, the necessity for security and "loyalty" regulations, the imperative for building up atomic strength. On the other side, the news reports and organs of opinion formation stress the villain as the Communist menace; that the U. S. S. R. is the enemy state, that American communist party members are agents of a foreign power, with their loyalty to Moscow, under direction from there, and are trained at infiltrating and subverting and espionage and plotting and conspiring. The accused individuals are pictured by the prosecution, as in advance of the trial, as horrifying creatures who conform to these negative stereotypes. What was thus brought into play

was tersely summarized by Professor Clyde Miller, *The Process of Persuasion*, Crown. Pub. N.Y. 1946, "Self-preservation is persuasion's first law." [p. 24]

iv. *Stress and Anxiety as Productive of "Scapegoating"*

The pre-trial period was a time of great stress. The attitudes and prejudices, the uncertainties and bewilderment of persons confronted with a demand for decision, produce vague but tremendous fears and anxieties which develop attitudes of defensive hostility and aggressiveness. This is the pattern of scapegoating, so well formulated by Gordon Allport and Henry Murray and their seminar at Harvard (published as the widely-used A.B.C.s of Scapegoating by the Chicago Y.M.C.A.). It is so applicable to the present case, that it is set forth here in abbreviated form.

Scapegoating may be defined as: a phenomenon wherein some of the aggressive energies of a person or group are focused upon another individual, group or object; the amount of aggression and blame being either partly or wholly unwarranted. Psychologically, we must recognize that scapegoating grows out of normal attitudes, normal biases, and ordinary prejudices. It is under the severe impact of unusual frustration and hardship, misinterpreted through primitive reasoning, that the excesses of scapegoating occur.

The motives and mechanics for scapegoating are (a) fear and anxiety (b) conformity and (c) tabloid thinking.

(A) *Fear* is an actual feeling of danger and dread. It may be reduced or dispelled by a preventive attack on what is considered to be the threat. Often in times of fear, we do not distinguish between real and pseudo-threats. For example: Our fear of spies and saboteurs leads us to be unduly suspicious of all foreigners and of innocent minority groups. During the war, for many months all—not some—of the Pacific Coast Japanese-Americans were held in internment camps. *Anxiety* is anticipation of danger. Like fear it represents feelings of insecurity. It can be alleviated by rationalizations which take the form of scapegoating. During a war or a "cold war" fears and anxieties are preva-

lent: we vaguely fear air-attacks; we are anxious for the safety of those at the front. To help explain these jitters we may invent absurd menaces which, though fantastic, seem definite and credible. For example, we listen to tales of a Negro uprising or a Jewish plot.

(B) *Conformity* makes for security. If everyone around us is given to scapegoating, and particularly those we value highly, then only by imitating their actions can we be fully accepted in the group whose approval we desire. For example: Under the Nazi regime, many Germans scapegoated the Jews to establish themselves as acceptable Nazis and thus avoid persecution for themselves.

(C) *Tabloid Thinking* involves the pursuit of meaning. War or cold war bring out in fearful vividness the helplessness which the individual feels in the face of the world-wide forces. Simplification of issues is sought in order to make possible some understanding of this social chaos. It is less trouble to think of the munitions makers as responsible for war, than to figure out its complex economic and cultural causes. Simplification of issues provides for economy of energy; if a person feels hostile and aggressive it is more economical for him to attack one single obstacle in his path than to diffuse his aggressive impulses. Sometimes the issue may be more simplified by blaming a group or class or people rather than specific individuals.

All these motives may create a pattern of aggression against someone who comes to be reputed to be guilty. But in most cases the aggression is "displaced." The actual guilt or innocence of the victim, the fact that he may not have been tried or confronted with evidence against him is irrelevant. The victim of scapegoating is chosen for attack for several reasons. (1) The victim has *distinguishing, salient characteristics*. He is easily identified; he has "high visibility." In particular, any behavior which seems to imply a transgression of the moral code is an active source of scapegoating. (2) The victim has little *possibility for retaliation*. (3) The victim is *accessible*. (4) The victim has been a *previous object of blame*: there is latent hostility against him, though he may be quite guiltless in the present instance. (5) The victim can *personify* an idea or a

group which we want to attack. In old Salem the witches personified the devil. In 1917 individual German-Americans were abused in America because of hatred toward the Kaiser and his armies.

v. (Summary:) *High susceptibility in Rosenberg-Sobell case*

Prior to the advent of the Rosenberg-Sobell case, the community had acquired a frame of reference, shaped by the advent of the cold-war, as presented by media coverage. From the need for in-group feeling, and the general cold-war jitters, the community became susceptible to suggestive indoctrination by the press.

During the pre-trial period, the media coverage of the case was so inflammatory, and the coverage of issues which the press associated with the case were so negative and intensive, that stereotypes were created for the community. The media had a virtual monopoly as source of information in these areas, since almost no one had the first-hand knowledge with which to *structure* an attitude. The attitude thus created was a product of suggestion rather than structuration. The Rosenbergs became the scapegoats for the community's hostility. During the trial, the jurors, who were drawn from this community most subjected to this press coverage and most threatened by the imminence of atomic attack contained therein, held attitudes containing negative stereotypes; which attitudes were therefore not readily susceptible of modification by rational evaluation of the evidence.

Members of the jury are of course representative of the general population, and as such have the beliefs and opinions, the attitudes which typify our culture. The jury in this case is, in part, unwittingly selected in this respect. Whereas the total group of selectmen may conceivably contain an actual random sample of the jury district's adult population, as to occupation, race, religion, sex, income, and range of political beliefs and attitudes, the selection of the specific jurors involves the exclusion and dismissal from the panel of those persons with any extreme or atypical views in either direction; this tends to eliminate from the

jury those exceptional individuals who may have been resistant to the suggestive pressures of the media.

In the present situation, the jurors have probably never met a Russian Communist, an American Communist, nor a spy; and it seems extremely unlikely that the statements of the prosecuting officials to the press that the petitioners were atom spies, communists and of Russian Polish origin could have failed to set up a prejudicial frame of reference which critically affected their perception of the acts and intentions of the petitioners as presented and implied in the trial. Therefore, in the jurors' thinking the stereotyping created by the hostile climate have been operative.

Not only was a pre-disposition hostile to the defendants created by the media, but also evidence in their favor presented at the trial could not have done much to change the minds of the jurors. As Dr. Bernard Berelson strikingly makes the point (*Communication in Modern Society*, University of Illinois, 1948):

"What may or may not be clear, however, is that the strongly predisposed on an issue actually manage not only to avoid contrary communication material so that it just does not come to their attention but also that they manage to misunderstand the material (which objectively is straightforward) when confronted by it. . . . Prejudiced people find several ways in which to evade the message of pro-tolerance propaganda; they avoid the intended identifications, they invalidate the message, they change the frame of reference, they 'just don't get it.'"

C. *Comparative study of the validity of the theorems and standards: "Invasion from Mars"*

In the assessment of the conditions under which media may strongly affect public attitudes, social psychologists have rarely had the opportunity to utilize empirical data occurring in a "real live situation." Most of the data accumulated experimentally has resulted from laboratory studies. It is for this reason that those few cases in which effects of the media have been clear and demonstrable have been carefully studied. As in any science, observation of

the process in its "purest" state provides the optimal conditions for its analysis.

Thus, the public reaction to Orson Welles' broadcast "The Invasion from Mars" has been most carefully investigated by social psychologists. Here we have a situation where the public reaction was immediate and direct and the reaction itself extreme. By studying this "pure" case it becomes possible to learn what the conditions are which make for maximum public suggestibility, which makes a public susceptible to the media. The principles which may be drawn from an examination of this unambiguous case history of media affect on attitude may help illustrate some general principles of how such effects operate under ordinary conditions.

The petitioners have claimed that the susceptibility of the community to stories about atom spies and the like is in part a product of the general state of world affairs, and that this deterioration of relations between Russia and the United States and the fear of an atomic war set up conditions especially conducive to the acceptance of the pre-trial "advertising" of the claim of the petitioners' guilt.

The actual state of world affairs is an important factor in determining the effects of mass media is no mere idea invented by the defense for this particular situation. Social psychologists have made this point with great emphasis and it is nowhere better illustrated than in Cantril's discussion of the reaction of the public to "Invasion from Mars" broadcast.²² It will be remembered that the broadcast caused widespread panic in many places—a reaction which seemed to observers quite disproportionate to the situation. In Cantril's analysis of the reactions to the broadcast, in which many of the persons who participated in the panic were interviewed, he offers as a partial explanation for the extremity of the response the following:

"This broadcast occurred in the fall of 1938 when vast numbers of the population were unusually bewildered

²² All references are to *The Invasion from Mars, A Study in the Psychology of Panic* by Hadley Cantril, with the assistance of Hazel Gaudet and Herta Herzog, published by Princeton University Press, 1940.

by the prolonged economic insecurity they had experienced and by the precarious and delicate state of world affairs following the Munich stalemate. In commenting on the panic Heywood Broun tersely and aptly summarized the effect of general social and political unrest by saying that 'the jitters have come home to roost.' Current norms were somehow proving inadequate to account for objective conditions, the whole course of recent history having created a relatively ambiguous and unstructured situation conducive to high suggestibility."

It is most significant that one radio broadcast was able to trigger large numbers of people into a panic reaction because of the general social insecurity. The same general phenomenon operated in the case at issue. The fear of war and atomic invasion have been so much a part of the environment of the average American that, it would seem quite likely, as in the case cited by Cantril, that a high degree of suggestibility was created.

At 8:00 p.m., Sunday night, October 30, 1938, Orson Welles Mercury Theatre presented a modernized version of H. G. Wells' story *The War of the Worlds*. The radio script's version of the story of the invasion of Martians used New Jersey as its locale, and made specific mention of many familiar localities. The radio play produced great panic; people fled the area, sought shelter, tied up phone communications, etc. One week after the broadcast a program of detailed interviews of a sample of subjects in the New Jersey area was instituted, under the sponsorship of the Federal Radio Education Committee, by virtue of a grant from the Rockefeller Foundation to Princeton University, and a special grant, after the broadcast, by the General Education Board. Six weeks after the broadcast a nation-wide sample of several thousand adults was conducted by the American Institute of Public Opinion (the Gallup survey). The Columbia Broadcasting System conducted their own nation-wide interviews during the week after the broadcast. The results of all these are incorporated in the Cantril analysis.

The results of this study shed light on the problem of the effects of mass media upon the community and therefore is pertinent to the problem of the condition of the community from which the jurors in the Rosenberg-Sobell case were drawn. The study showed (a) that the threat to personal safety created by the stimulating broadcast acted upon the suggestibility of the community, so that the population showed wide-spread lack of, or suspension of, critical ability, (b) that the greatest susceptibility occurred in the area which was presented as being under immediate attack (c) that among the chief causes of the effectiveness of the stimulating broadcast was the prestige of the supposed speakers and the war scare in Europe. These points, as they apply to the Rosenberg-Sobell Case, will therefore be set forth in order.

(a) *The Threat to Personal Safety Created by the Stimulating Broadcast Acted upon the Suggestibility of the Community, so that the Population Showed Wide-spread Lack of, or Suspension of, Critical Ability*

In the 1938 panic the apparent threat to life and safety came from an extra-planetary invasion described for less than one hour on one radio station, heard by, at best estimate, 6,000,000 listeners. According to the AIPO survey, 28% believed the broadcast to be a genuine news bulletin, and "seventy percent of those who thought they were listening to a news report were frightened or disturbed. This would mean that about 1,700,000 heard the broadcast as a news bulletin and that about 1,200,000 were excited by it." [p. 58] On the general reluctance of people to admit, under questioning, to being credulous, influenced, etc., Prof. Cantril comments "It must be remembered that the number of persons who admitted their fright to the AIPO interviewers is probably the very minimum of the total number actually frightened. Many persons were probably too ashamed of the gullibility to confess it in a cursory interview. [p. 58]

This single, brief and unreal event produced such widespread fear and such severe anxiety, that it continued for days, and even weeks after the event; this is shown by the respondents who reported that they were sick for days

afterward, and by the barrage of mail received by the radio stations and the Federal Communications Commission.

Since, during the pre-trial period of the Rosenberg case, the sources of fear were the threats to life and safety stated by the numerous stories in press, radio and television of the dangers of the atom bomb, reiterated and confirmed daily, the extent of fear in the community can only be estimated, but, being more realistic and wide-spread in its sources, must have been many times greater than that demonstrated in this peculiar panic. In the case of "The Invasion From Mars", a large proportion of the listening population were able to withstand the experience critically by reference to reality; it was only necessary to turn the radio dial or look around to discover that the world was as before. Even so, many whom Cantril regards as "susceptible" to suggestion, continued to respond to the impact of the threat despite the contradictions of reality. For example:

"... I went to the window and looked over to New York. I didn't see anything unusual there either, so I thought they hadn't gotten there yet."; and

"We looked out of the window and Wyoming Avenue was black with cars. People were rushing away, I figured.", and

"No cars came down by street. 'Traffic is jammed on account of the roads being destroyed,' I thought." (Emphases are those of Cantril, p. 93)

It is of major importance to note that once these interviewees were convinced that the report was news, they interpreted whatever factual situation confronted them as confirmation of their belief. They explained away or tied in any fact to justify their belief. It did not matter whether the traffic was thin or thick, usual or unusual.

Once a potential juror is told by those whom he looks upon as having authority and prestige that particular individuals are Communists and spies, then any facts about them will be woven into the fabric of this belief.

(b) *The Greatest Susceptibility Occurred in the Area Which Was Presented as Being under Immediate Attack*

During "The Invasion from Mars" the degree of fright was directly related to the location of the person listening with regard to the fictitious scene of invasion. "Two-thirds of the persons interviewed in this study who lived in the immediate vicinity of the invasion [New York, New Jersey and Pennsylvania] were frightened; 60 per cent of persons not in the immediate locality but within 500 miles of it, 57 per cent of those within a 1000-mile radius and 53 per cent of those within a 2000-mile radius were frightened." [p. 147] It is to be expected that stories emphasizing New York as the possible target for atomic attack would similarly be most frightening to residents of New York City.

The imminent possibility of atomic attack was felt particularly in the New York area during the 1950-51 period because: (1) The stories in the New York City newspapers stressed the possible effects of an atomic bombing on New York (cite Ex. IX, A-2, 3; Ex. VIII, D-7; Ex. II, E-8; Ex. III, E-2); (2) During the period in question the Korean war had begun and on July 10, 1950 a recruitment of volunteers for civilian defense in New York was carried out; (3) As an aspect of the Civilian Defense program the city was demarcated with regard to shelter areas; (4) A program of dog-tagging the school children of New York was initiated and carried through, and air-raid drills were instituted in the New York schools for the first time.

Since these events could impinge on (1) newspaper readers, (2) radio and TV listeners (Radio Civilian Defense), (3) members of the population literate enough to read Shelter and instruction signs, and (4) parents and other relatives of school age children, no significant segment of the population of the New York area, from which the Rosenberg-Sobell jury was drawn, could have remained ignorant of the fact that government and other authoritative sources regarded the city of New York as being under danger of attack by atom bomb.

(c) *Among the Chief Causes of the Effectiveness of the Broadcast Was the Prestige of the Supposed Speakers and the War Scare*

After "The Invasion From Mars" fright, respondents to interview indicated that the importance and authority of the (imaginary) experts had convinced them of the reality of the danger and influenced their course of action. In the play the authority figures were scientists and professors, Army General, commander of the State Militia at Trenton, Vice-President of the Red Cross, Captain of the Signal Corps, and Secretary of the Interior (all fictitious). Cantril says of these effects, "It is a well known fact to the social psychologist, the advertiser, and the propagandist that an idea or product has a better chance of being accepted if it can be endorsed by, or if it emanates from, some well known person whose character, ability, or status is highly valued. The effect of this prestige suggestion is especially great when an individual himself has no standard of judgment by means of which he can interpret or give meaning to a particular situation that confronts him and when he needs or is interested in making a judgment or finding a meaning. The fantastic events reported by the announcers in this broadcast were far removed from ordinary experience; yet they were of such great potential and personal threat to the listener that he was both bewildered and in need of some standard of judgment. As in many situations where events and ideas are so complicated or far removed from one's own immediate everyday experience that only the expert can really understand them, here, too, the layman was forced to rely on the expert for his interpretation." (p. 70-71). In the present case certainly J. Edgar Hoover is a "well known person whose character, ability or status is highly valued"; this gives his statement a good chance of being accepted by persons to whom the recruitment of "espionage information and agents" is far removed from personal every day experience. The same could be said of Mr. Irving Saypol, then U. S. Attorney for the District, and his statements (R. 50) and Representative Carl Mundt's statement (R. 51) and, of course, President Truman's statement (R. 50),

At the period of the "Invasion from Mars" the insecurity created by the war scare in Europe was a product of the crisis in Czechoslovakia that year. During the pre-trial period in the Rosenberg case there were many indications of danger of spreading of the Korean War which created a comparable feeling of insecurity.

The community of the Southern District having been subjected to an unusual pre-trial publicity, and being especially threatened by A-bomb attack, and lacking direct realistic experience of such attack, were then susceptible to the effects of prestige suggestion as to the dangers of such attack, as to the dangers of atomic espionage, as to the espionage-like character of Communists and to the relation of the Rosenberg-Sobell case to all previous and current atom and/or experience cases and events. Under these conditions it is doubtful that any considerable portion of the potential jurors could withstand the effects of the publicity during this period.

Depicted, then, in the foregoing material are not only the tools and techniques of an established science—"content analysis" and "opinion analysis", but also its theorems and standards of evaluation. What seems evident is not merely that expert assistance can be appropriate and meaningful in analyzing content and in evaluating the probable impact of the content in a particular social framework, enough appears from the foregoing to make it possible to assert that the application, by a court, of the standards of evaluation that have been scientifically developed, would justify, if not require, the conclusion that petitioners were put into a position where their trial was "but a legal gesture to register a verdict dictated by popular preconception", and hence, not a "trial" at all, in the Constitutional sense.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1952

No. 687

JULIUS ROSENBERG AND ETHEL ROSENBERG,
Petitioners,

vs.

UNITED STATES OF AMERICA

PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
SECOND CIRCUIT.

EMANUEL H. BLOCH,
JOHN F. FINERTY,
Counsel for Petitioners.

65-58236-1598
ENCLOSURE

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SUPREME COURT OF THE UNITED STATES

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No. 687

JULIUS ROSENBERG AND ETHEL ROSENBERG,
Petitioners,

vs.

UNITED STATES OF AMERICA

PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
SECOND CIRCUIT.

Petitioners, Julius Rosenberg and Ethel Rosenberg, pray that a writ of certiorari issue to review the decision of the United States Court of Appeals for the Second Circuit, entered December 31, 1952 (R. 329), affirming an order of the United States District Court for the Southern District of New York, entered December 10, 1952 (R. 5),¹ dismissing their joint application under 28 U.S.C. § 2255, to vacate and set aside the judgments of conviction for conspiracy to

¹ "R." refers to transcript of record herein; "C.R." refers to the transcript of record of the criminal proceedings which was filed in this Court -- Docket No. 111, October Term, 1951. Copies thereof were annexed, as Exhibits "A" (Vol. I), and "B" (Vol. II), and made part of the instant application.

violate the Espionage Act [50 U.S.C. § 34, now 18 U.S.C. 794], under which they were sentenced to death.

Opinions Below

The opinion of the Court of Appeals appears in the record at R. 329 and is reported in 200 F. 2d 666. The opinion of the District Court appears in the record at R. 8 and is reported in 108 F. Supp. 798.

Summary of Matter Involved

History of the Proceedings

Petitioners JULIUS ROSENBERG and ETHEL ROSENBERG, his wife, were convicted in March, 1951, after trial before judge and jury in the United States District Court for the Southern District of New York, of conspiracy, during World War II and for some years thereafter, to transmit information "relating to the national defense to the Soviet Union, with the intention to advantage that nation" (though not to injure the United States), in violation of Sec. 34, Title 50, U.S.C. [now U.S.C. 794] (R. 31).

The main concern of the prosecution was the theft of atomic-bomb information stolen from the Los Alamos Project and siphoned to the Soviet Union. Its case rested on the accomplice testimony of David Greenglass (brother of the petitioner Ethel Rosenberg) and Ruth, his wife. "If [their] testimony were disregarded, the conviction could not stand." *United States v. Rosenberg*, 195 F. 2d 583, 592 (C.A. 2d, 1952). David Greenglass, a co-defendant, pleaded guilty prior to the petitioners' trial, but was not sentenced until after the petitioners' conviction when he received a sentence of 15 years (C.R. 2-4; 1638). Ruth Greenglass, also an admitted spy, was never arrested, indicted, or prosecuted for her crime and is presently a free woman (C.R. 593, 740).

Judgments of conviction, sentencing both of the petitioners to death, were entered on April 5, 1951 (R. 31). Pursuant to these judgments, the petitioners were committed to, and are presently detained in the death house at Sing Sing Prison, Ossining, New York to await the execution of their sentences (R. 31-2). The United States Court of Appeals for the Second Circuit affirmed the judgments of conviction on February 25, 1952, and denied rehearing on April 8, 1952 (195 F. 2d 583, 609). This Court denied certiorari on October 13, 1952 (344 U.S. 838) and rehearing on November 17, 1952 (344 U.S. 889), Black, J., in each instance, noting his opinion that the petition should be granted.

The instant proceeding, under 28 U.S.C. § 2255, to vacate and set aside the petitioners' convictions and sentences, was instituted on November 24, 1952, in the United States District Court for the Southern District of New York by petition and order to show cause (R. 30-129).

The petition alleges facts to show that the convictions and sentences were unjustly, unlawfully and illegally procured in violation of the Constitution and laws of the United States and that the sentencing court was without jurisdiction to impose the sentences, so as to render the judgments subject to collateral attack (R. 30-129).

The Government was permitted to submit affidavits in opposition (R. 130-150). The petitioners were afforded the opportunity to supplement their petition by affidavit (R. 151-57). They were confined, however, to the submission of reply affidavits to rebut facts deemed by the District Court to have been put in issue by the Government's opposition affidavits (R. 157-167).

Upon the record thus made, and upon the files and records of the case, the District Court, on December 10, 1952 after oral argument (R. 238-328), dismissed the petition without a hearing. The Court of Appeals for the Second Circuit

affirmed the order of the District Court on December 31, 1952 (R. 329), and on February 17, 1953 entered an order staying the execution of the petitioners' sentences pending the due filing of a petition for a writ of certiorari and until further order of this Court.²

The Present Proceeding

The record in this proceeding is an exposé of sordid scheming on the part of the prosecution to secure the con-

² This case reaches this Court in an extraordinary posture: judicial reduction and executive commutation of these sentences have already been denied, although the petitioners have not exhausted their remedy in this Court. The events which led to this situation are a result of an egregious impatience of the sentencing court with petitioners' pursuit of judicial redress.

After this Court denied rehearing of its decision to deny to the petitioners a writ of certiorari to review their original convictions, the sentencing court re-fixed the date of executions for the week of January 12, 1952. No stays of execution were granted by the District Court or Court of Appeals pending the processing of the instant application. In the course of these proceedings, and within the statutory 60 day period after issuance by the Court of Appeals of the mandate in the criminal proceedings, the petitioners, on December 29, 1952, applied to the sentencing court for a reduction of their sentences, which application was denied. On January 6, 1953, the sentencing court then entered an order staying the execution of the petitioners' sentence to afford them an opportunity to appeal to the President of the United States for executive clemency. The stay was to continue until the President acted and for five days thereafter. It was uniquely conditioned, however, in essence, upon the petitioners' refraining from pursuit of any judicial remedies, including the processing of this petition, until the President had acted.

On February 11, 1953, the President denied a commutation of sentence. On February 16, 1953, after a hearing for the fixing of execution date, the sentencing court, with knowledge of petitioners' intention to exercise their right to appeal to this Court, set the week of March 9, 1953, as the date of execution, on the basis, expressed at the hearing, "that the time has come when . . . the administration of justice shall proceed with assurance and without delay."

After consideration of these facts and the substantiality of legal questions to be presented, and to protect the right of the petitioners to appeal to this Court, the Court of Appeals for the Second Circuit, on February 17, 1953 stayed the executions, pending the due filing of this petition with, and further order of this Court.

viction of these petitioners by fair means or foul. It establishes the deliberate use of false testimony, which, in at least one instance, the Government was constrained to admit (R. 149-50). It establishes conduct on the part of the prosecution, during the trial, designed to bring irremediable prejudicial influences to bear on the jury, which the court below asserted "cannot be too severely condemned" (R. 334). It establishes prosecution practices, before the trial, to turn the public mind and the jury against the petitioners, which the District Court in this case characterized as "opposed to all fundamental concepts of due process" (R. 13). It establishes that the prosecution grossly and deliberately inflated the quality of the offense to make inevitable the verdict and the imposition of the unprecedented sentences of death upon the petitioners. Through its immoral, unconscionable and intentional deceptions of the court and jury—some of which, fortunately, have been discovered in time—the prosecution "contrived a conviction through the pretense of a fair trial which, in truth, [was] used as a means of depriving" these petitioners of their very lives. *Mooney v. Holohan*, 294 U.S. 103 (1935)

I

Perjured Testimony

1. THE ATOM-BOMB SKETCH PERJURIES

The most flagrant perjury, in a case replete with perjury, is the crucial evidence from the mouth of David Greenglass, the star witness for the prosecution, of the transmission of "secrets" of the Nagasaki atom-bomb. Patently, had it been known that Greenglass' testimony in this major respect was perjured, the jury would have considered his entire testimony in another light. It has already been noted that the Court of Appeals, affirming in the criminal appeal, declared that the convictions could not stand with-

out the Greenglass testimony. The perjury acquires a most fateful significance from the trial judge's reliance on the assumed truth of the testimony as cause for imposing the unprecedented sentences of death upon the petitioners (C.R. 1614-15).

The crux of the Government's case was Greenglass' testimony that he delivered to Julius Rosenberg, in September, 1945, a sketch of the Nagasaki atom-bomb and twelve pages of written material descriptive of the component elements of that bomb, their action and inter-action, and the principles of operation of the bomb itself (C.R. 493, 495-98). The prosecution was permitted, under the "charts, maps and diagrams" rule, to offer in evidence an alleged replica of the sketch allegedly turned over to Rosenberg (C.R. 463). This replica was prepared in March, 1951, at the time of, and for the purpose of being introduced at the petitioners' trial. This replica is the celebrated Exhibit 8, which, together with the testimony orally restating the contents of the twelve-page report, was impounded by the trial court (R. 499).

Explicit proof that such testimony was wholly incredible did not appear in the original record because of a ruling of the Trial Judge excluding potential proof of such incredibility (R. 916), but the improbability of this testimony was implicit even in the testimony itself as originally given. Explicit proof of the total incredibility, i. e., perjury, of this testimony was supplied in this proceeding by the affidavits of two leading British, and one French, scientists, which had been appended to the petitioners' application (R. 113-123).

These affidavits, as will later be noted, establish that Greenglass' testimony is false because (1) it is inconceivable that anyone with Greenglass' lack of background and experience could originally ever have been capable of producing a sketch of a cross-section of the Nagasaki atom-

bomb and twelve pages of descriptive material relating thereto; and (2) because even had Greenglass been able originally to produce such sketch and descriptive material, neither he, nor even a trained scientist, could have reproduced them at the time of the trial, more than five years later, wholly from memory, and without aid from any other source.

Greenglass was not a scientist. His formal education was limited to high school (R. 82; C. R. 610-15). After graduation, he attended a polytechnical institution for a single semester and failed each of the eight courses in which he was enrolled (R. 83). His remaining adult education was restricted to attendance for a year and a half at the Pratt Institute in Brooklyn, N. Y. (R. 83). He never acquired a degree in science or engineering; nor had he ever taken any courses in calculus, thermodynamics, nuclear or atomic physics, or quantum mechanics (R. 83). In answer to the question whether he knew anything about the basic theory of atomic energy, he answered:

"I know something about it, yes, I am no scientific expert, but I know something about it." (C. R. 612)

He did not further define what he did know about "it."

This is the sum total of Greenglass' educational qualifications as shown of record.

Greenglass testified that prior to entering the Army in 1943, he had practical experience as a machinist. After basic training, he was first assigned to the Ordnance School at Aberdeen, Maryland, as a machinist (C. R. 396), and after service at various other posts, he was sent, in July, 1944, to the Manhattan District Project at Oak Ridge, Tennessee, for two weeks of orientation, prior to his transfer to Los Alamos (C. R. 397-98).

His orientation consisted of being told that Los Alamos was a secret project, but he was not told, and did not know,

what the secret was (C.R. 397). In August, 1944, he reached Los Alamos (C.R. 398). The most stringent regulations, which prevailed at the Los Alamos project affecting the conduct of employees, forbid persons on Greenglass' level from gaining access to information about the work, experiments or projects being conducted, except in the restricted area in which they worked (G.E. 1, 19, 20; C.R. 618-25, 406-09).

Greenglass never observed or examined the Nagasaki atom-bomb, or a blueprint, or drawing or sketch of the weapon at Los Alamos or elsewhere, from which he might have made a reproduction.

He swore that the original sketch and the twelve pages of expository matter which he allegedly delivered to Rosenberg in September, 1945, were composed by him from memory alone, revived out of scraps of oral information gleaned at the project through random questions and conversations (C.R. 493, 495-98, 609, 613, 619-21, 627-27).

The prosecutor asked Greenglass the following questions and received the following answers:

"Q. . . . did you, in ensuing months, gather information concerning the atom bomb?

A. I did.

Q. Will you tell us just how you went about them?

A. I would usually have access to other points in the project and also I was friendly with a number of people in various parts of the project and whenever a conversation would take place on something I didn't know about I would listen very avidly and question . . . the speakers to clarify what they had said. I would do this surreptitiously so that they wouldn't . . . I would do it so they wouldn't know.

"Q. No, in addition to that fact, you yourself were working on various things used in connection with the experimentation used on the atom bomb?

A. That is correct.

Q. Such as this high explosive lens?

A. High explosive lens molds were made in my shop and I got—as a matter of fact, there were molds used on the atom bomb.

Q. Was it on the basis of this knowledge that you had accumulated over those months that you told Rosenberg you thought you had a pretty good description of the atom bomb itself?

A. I did." (C.R. 494-495)

This is the sum total of the prosecutor's direct examination of Greenglass and of Greenglass' testimony as to the means by which he, a machinist without any scientific training whatsoever, was able to obtain the highly technical and top secret information which allegedly made it possible for him to draw for Rosenberg a sketch of a cross-section of the Nagasaki atom-bomb, and to write out for him twelve pages of material descriptive of its component elements, their action and inter-action and the principles of operation of the bomb itself. It was solely on the basis of this "information" that Greenglass testified he was able to tell Rosenberg: "I think I have a pretty good description of the atom bomb." (C.R. 496)

Although, according to his testimony, Greenglass' ability to produce a sketch of the cross-section of the atom-bomb was based on "conversations" with scientists on the project, his testimony was a studious evasion of statement of the names of those from whom he obtained this information. The single exception was a soldier-scientist, William Spindel, and his information was confined to the fact that a man known at Los Alamos as Baker was actually the atomic scientist Nils Bohr (C.R. 620).

His claim to competence to reproduce the structure of the atom-bomb and explain its operation is belied by the

testimony of his own response to an inquiry of an alleged confederate in 1945:

"The Witness: He wanted to know the formula of the curve on the lens; he wanted to know the H. E. used, and means of detonation . . . but the things he wanted to know, I had no direct knowledge of and I couldn't give a positive answer." (C.R. 453)

Nor could he, on *cross-examination* at the trial answer a similar question (C.R. 628):

"Q. You did not even know the formula for the curvature, did you?

A. That is exactly correct.

Q. What? You had to be a scientist to know the formula, isn't that right?

A. That is right."

The preposterousness of Greenglass' claim is enhanced when it is realized that his lack of scientific development or understanding was not compensated by the capacity of his powers of observation. Some indication of his lack of knowledge is illustrated by his testimony that, although he arrived at Los Alamos in August, 1944, it was not until his wife visited him on November 29, 1944, during a furlough to Albuquerque, that he discovered the project was concerned with the construction of the atom-bomb. He learned this fact only when his wife told him that Julius Rosenberg allegedly had told her--

"... that I was working on the atomic bomb; that was the first I knew of it." (C.R. 399)

These facts formed the basis for the scientific judgment that Greenglass was incapable of having prepared the

sketch of the cross-section of the Nagasaki atom-bomb or the description of its workings.³

The judge had foreclosed inquiry into this specific subject on the trial. Derry, called as the Government's atomic expert, was asked, on cross-examination (C.R. 916):

"Q. Would you say as a scientist, a graduate engineer who has received college courses and received a degree in engineering, and had the experience you have detailed to us here, that a machinist without any degree in engineering or any scientist (science) would be able to describe accurately the functions of the atom bomb and its component parts . . . both in relation to their independent functions and their interrelated functions?"

The judge, *sua sponte*, sustained the objection.

In this proceeding, the record evinces independent evidence, necessarily *dehors* the trial record, of Greenglass' utter incapacity to have performed as he testified he did.

The affidavit of T. R. Kaiser, a British scientist, presently employed in connection with British atom-bomb development, states:

"Question: . . . Could a person of Greenglass' background and experience have produced in 1945 a sketch of a cross-section of the Nagasaki type of atom bomb together with twelve pages of matter explaining the functions and workings of such a bomb and its component parts, drawing solely from memory and without the aid or assistance of any person or written matter or technical or scientific source of coaching?

Answer: . . . It is inconceivable that a man in the position of said Greenglass, without specialist training and experience, could have accomplished this feat in 1945." (R. 120-21)

³ The deposition of Kaiser, and the other scientists hereinafter referred to, were founded upon a reading of the full testimony of Greenglass, as it related to scientific matters, and of John A. Derry and Walter Koiki, the Government's "expert" scientific witnesses.

The conclusive evidence that the testimony of Greenglass was perjury and that the Government knowingly contrived it for the purpose of, and deliberately used it at, the trial is found in the circumstances surrounding the introduction into evidence of Exhibit 8.

Greenglass swore that the replica of the sketch of the Nagasaki atom-bomb he testified he gave Rosenberg, Exhibit 8 (made five and one-half years after its alleged original production), was prepared by him from memory alone and without the aid of any person or any reading sources furnished to him by the authorities or any other person (C.R. 609-11; R. 82-3).

He swore further that his trial testimony, orally restating the contents of the twelve-page report that allegedly accompanied the delivery of Exhibit 8, was also based solely on unaided memory (C.R. 608-11; R. 82-3).

The affidavits of scientists, that form part of this record, are unequivocal attestation to Greenglass' absolute incapacity to have performed this feat.

T. R. Kaiser states (R. 121):

"I repeat my answer to the previous question and say that it is likewise inconceivable that the said David Greenglass could have reproduced the matter in question in 1951 without the aid or assistance or any person or written matter or help from any technical or scientific source."

(This scientist even questioned his own ability to perform a like fact in his own special field.)

Jacques S. Hadamard states (R. 122-23):

"It is inconceivable that Greenglass could have reproduced replicas of a cross section of the Nagasaki type of bomb plus explanatory matter after a lapse of five or six years, relying solely on his unaided memory. It is more inconceivable still that Greenglass could have given lengthy and detailed explanations not only

on the component parts of the bomb, but also on their functions and workings; all he could not have any idea of and which nobody is alleged to have given him even an idea."

J. G. Crowther states (R. 115):

"... that it is his opinion that it would have been impossible for the said David Greenglass to have reproduced in the years 1950 or 1951 a reliable replica of a sketch of a cross section of the Nagasaki type of atom bomb together with twelve pages of matter explaining the functions and workings of such bomb and its component parts, the said sketch having been last seen by the said David Greenglass five years previously and the said David Greenglass relying for the reproduction solely on memory and without any outside aid or assistance."⁵

Derry, one of the Government's "experts", was shown Exhibit 8 and had read to him the untranscribed explanatory oral testimony. He stated that the exhibit was a substantially accurate representation of a cross-section of the Nagasaki atom-bomb and affirmed, as well, the substantial accuracy of the oral explanation (C.R. 908-15).

⁵ Greenglass had also testified he delivered (1) to Julius Rosenberg in January, 1945, a sketch of a high explosive lens mold and related descriptive material used in atomic experiments at the Los Alamos project (C.R. 428-29, 438-39); and (2) to Gold, a named conspirator, in June, 1945, sketches of a later development of a lens mold in schematic view, and explanatory data (C.R. 458-60).

On the same theory, the Government had been permitted to introduce replicas of Exhibit 2 (January, 1945, incident) and Exhibit 7 (June, 1945, incident) similarly prepared prior to the trial, and Exhibit 6 (June, 1945, incident) prepared on the day of Greenglass' arrest, all allegedly from memory alone, without outside aid.

The same scientists referred to above expressed varying degrees of incredulity respecting Greenglass' capacity to produce the replicas in 1950 and 1951, in spite of the fact that he had actually worked on phases of the construction of these mechanisms (R. 119-21; 115; 122-23). These opinions necessarily fortify the conclusion that Greenglass was not capable of having produced the replica of the cross-section of the Nagasaki atom-bomb.

Since the scientific affidavits show the incapacity of Greenglass to draw or explain the cross-section of the Nagasaki atom-bomb, and since Exhibit 8 and the accompanying explanatory testimony was a substantially accurate representation, it is patent that Greenglass' testimony was false (1) as to his preparation of the original sketch and report; and (2) as to his preparation of Exhibit 8 and its testimonial explanation from memory alone, and without any outside aid.

The indicia of the Government's connivance to produce, and its deliberate and knowing use of, this false testimony are found:

(1) In the inherent improbability of Greenglass' story, precluding the possibility of the prosecutor's innocent use of it.

(2) In the singular fact that although Greenglass allegedly "confessed" in the early summer of 1950 (C.R. 577-78; 604), and although the delivery of the sketch (and information) concerning the Nagasaki atom-bomb formed the core of the Government's case, this incident was not, as were other alleged transmittals, listed as an "overt act" even in the last superseding indictment of January, 1951 (C.R. 2-4).

(3) Inasmuch as Exhibit 8, as well as Exhibits 2, 6 and 7, were prepared by Greenglass after he was already in the custody of the United States Government, he could not have been aided or coached by any person or reference books without the knowledge of the prosecuting authorities or their agents.

These exhibits went to the gravamen of the case and the essence of Greenglass' testimony. As can well be understood, they constituted to the lay mind of the jury most damaging evidence. The suppression concerning the truth, that these exhibits were literally "manufactured" for trial,

as a hearing on this petition would have more fully revealed, was a most profound imposition upon the court and a measure of the magnitude of the extent to which the evidence on which the petitioners were convicted was a result of fabrication.

2. THE PASSPORT PHOTOGRAPHER PERJURY

Ben Schneider, a photographer (R. 1425-26), was the last Government witness. Produced as a "surprise" in rebuttal, his testimony provided a dramatic climax to the trial. His name had not appeared on the Government's list of witnesses (C.R. 51-2), notice of which in advance of the trial was required to be given to the petitioners (18 U.S.C. § 3432)

He testified on March 27, 1951. He swore that in May or June, 1950 he had taken passport photos of the petitioners and their children at his photography shop, located within walking distance from the petitioners' home (C.R. 1427-29). He swore further that the first time any Government official communicated with him was on the morning of March 26, 1951 (the day before he testified) when two F.B.I. agents exhibited to him photographs of the petitioners and he then and there, initially, made a positive identification of the petitioners as the persons whose passport photos he had taken (C.R. 1425-26; 1429).^{*}

He testified then as follows:

"Q. Did you then deliver it (the photos) to Mr. Rosenberg?

A. Yes.

Q. Did he pay you?

A. That's right, sir.

^{*} The Government pressed the claim concerning this first approach to the witness on the morning of March 26, 1951 to excuse its non-performance of the statutory requirements (C.R. 1425-26).

Q. And is that the last time you saw him before today?

A. That's right.

Q. Now when the agents came to visit you yesterday, did they show you photographs?

A. They did.

Q. Was it from those photographs that you picked him (Rosenberg) out?

A. That's right.

Q. And is it seeing him here with his wife that recalls it to your memory that they were the persons who came in?

A. That's right; that's right." (C.R. 1429)

The answer to the question relating to the "last time" the witness saw Rosenberg before "today" (the day he testified) was false and known by the prosecution to be false.

The record shows that the Government admitted that after the alleged visit of these F.B.I. agents and later that day, March 26, 1951 (the day prior to his testimony) Schneider was introduced secretly into the courtroom by an F.B.I. agent, on the order of the prosecutor, in violation of the court's direction excluding all witnesses, to secure his *uncertain* identification of the petitioners made earlier that morning (R. 86).⁷

The Court below finds absence of falsity in Schneider's answer because "on cross-examination of Schneider at the trial, both court and counsel treated the answer as meaning 'before the trial' " (R. 336). The finding is without the slightest foundation (C.R. 1429-41).

The Court below found that Schneider, having "no motive for falsehood", had not intentionally lied (R. 336). The secretive intrusion of this witness into the courtroom without the knowledge of the petitioners and the

⁷ The Government admitted these facts in its opposing affidavits (R. 149-50).

court, and in violation of its plain direction that all witnesses be excluded from the courtroom; and the reason for the necessity of the prosecutor's introduction of him into the courtroom, all attest to the motive for his lie: the concealment of his uncertain identification. The prosecutor's motive, the only relevant factor, was to keep from the court his deliberate breach of its order.

The issue of Schneider's ability to identify the petitioners was squarely put in issue. The cross-examination of Schneider revealed that he had seen photos of the petitioners in the newspapers after their arrest, but, he claimed, he could not, from these pictures, identify them as persons who took passport photos in his place, because there was no side-view (C.R. 1432-33). This record shows that he was not even certain when the F.B.I. agents came to him (R. 86), although he testified that when they showed him a side-view of the petitioners he was positive that it was they who had come to his shop to take passport photos and had told him, at the time of the taking of these pictures, that the family intended to go to France to settle Ethel Rosenberg's estate (R. 85; 1428-29).

For the Court below to have ruled that the falsity was immaterial because the Rosenbergs' testimony shows that they may have entered the Schneider shop to take casual photos (R. 336), is a patent absurdity. The question of identification of the Rosenbergs as casual customers was not in issue. It was their identity as *takers of passport photos*, categorically denied by the Rosenbergs, that was of the essence of his testimony.

Schneider's testimony was highly important for two reasons. First, the main subject of his testimony related to the sensitive question of "flight." Secondly, it served to corroborate, where there was no other corroboration, the testimony of David Greenglass that the petitioners intended to flee this country to avoid arrest (C.R. 529, 713).

It is not an unfair inference that had the jury known that this witness apparently needed aid in his identification, it would have substantially affected their acceptance of the testimony.

3. THE GREENGLASS "CONFESSION" PERJURY

David Greenglass testified he did not "conscientiously withhold" any facts from the agents of the Federal Bureau of Investigation on the night of his apprehension on June 15, 1950, and that the facts he related to them were "to the best of [his] knowledge at this time" (R. 78; C.R. 577-78).

On the morning of June 16, 1950, a few hours before his arraignment, Greenglass retained O. John Rogge, Esq. to represent him as his attorney. He swore he had not told his attorney "to fight the case" (R. 79; C.R. 577-78).

This testimony was obviously designed to convey to the jury that Greenglass had made an immediate and honest disclosure of his and his wife's involvement and of his implication of Julius Rosenberg in the crime of espionage.

The testimony was false and perjurious and known to be so by the prosecutor.

Nevertheless, U. S. Attorney Saypol, the chief prosecutor, permitted this testimony to stand without challenge and without any attempt during the trial to elicit the truth.

The proof of the falsity came later from the lips of the prosecutor.

On Greenglass' sentence (which occurred after the trial and sentence of the petitioners) U.S. Attorney Saypol stated in open court:

"I remember well . . . at [Greenglass'] arraignment . . . Mr. Rogge protested his innocence. Through Ruth Greenglass, his wife, came the subsequent recantations of these protestations, their cooperation and the

disclosure of the facts by both of them. (Emphasis ours).

Rogge supplied confirmation. On those same sentence proceedings of Greenglass, he told the Court:

"I want to emphasize . . . that [David Greenglass] did cooperate with the government and almost from the outset. . . ." (R. 81; C.R. 1628).

The circumstances surrounding Greenglass' ameliorated treatment in jail (C.R. 596-99) after his wife's initial and continued consultations with Rogge (C.R. 732, 779-80); the ensuing conference in the U.S. Attorney's office between David and Ruth Greenglass, Rogge and the prosecuting authorities (C.R. 742-43); the vagueness of the Greenglasses about the subject matter of the conference, as contrasted with their clear memories of events five years old (C.R. 601-2, 743); the written statements of the Greenglasses and their cooperation with the authorities that followed this conference (C.R. 604, 743); the immunization of Ruth Greenglass from prosecution (C.R. 740); the treatment accorded Rosenberg on June 16, 1950 when he was interrogated by the F.B.I. and not detained after the questioning (C.R. 1137-41) and his arrest a few days after the Greenglass' conference with the authorities, all offer eloquent proof that the prosecutor knew that Greenglass had not "confessed" immediately and yet, had allowed the witness to so testify.

A sharp issue of fact was presented to the jury, the resolution of which turned on whether they believed the Greenglasses or the petitioners.

The petitioners, who have always asserted their innocence, defended on the ground that the Greenglasses schemed to implicate them in the crime of which they were convicted, "as part of a deal" with the prosecution, to mitigate

retribution against themselves for their confessed crimes.

If David Greenglass had not "confessed" to the authorities until some time after his apprehension, the inexorable logic of the defense position would have been evident. False testimony that his "confession" was immediate correspondingly weakened this position, and substantially contributed to the conviction of the petitioners.

The Court below, in refusing to regard the statement of Saypol "as an admission that Greenglass had committed perjury" closed its mind to the plain meaning of the word "recantation." A recantation, as is well known, is a retraction and denotes a renunciation. To recant is to "recall," "withdraw or repudiate formally and publicly opinion formerly expressed," "take back openly," "retract," "revoke," "repudiate," "disavow," (*Webster's New International Dictionary* (2nd Ed.) Unabridged. It must be assumed that Mr. Saypol, as a lawyer, was not using the word "recantation" except in its normal, dictionary, and usually accepted meaning. The only reasonable inference to be drawn from Mr. Saypol's remarks is that Greenglass did not "confess" immediately but only after the intervention of his wife did he "subsequently" repudiate his earlier claims of innocence and "cooperate" and "disclose" the "facts".

II

The Perl Indictment

The history of the Perl indictment records a scandalous defilement of the administration of justice by officials entrusted with the grave responsibility of prosecution. During the trial of the petitioners, one William Perl, listed as a prospective prosecution witness (C.R. 52), and inferred

to be an espionage agent, was indicted for perjury in denying that he knew: (1) the petitioner, Julius Rosenberg; (2) Morton Sobell, a co-defendant on trial with the petitioners; (3) Ann and Michael Sidorovitch, (husband and wife) the former named by Greenglass on the trial as a confederate of the petitioners, and both on the list of Government witnesses, although not called to testify; and (4) Helene Elitcher, the wife of Max Elitcher, the first prosecution witness, herself named on the list of Government witnesses, although not called (R. 70).

Defense counsel learned of the charges against Perl on the morning following the unsealing of his indictment and his arrest. The fact of Perl's indictment, to which their knowledge, at that time, was confined, was brought immediately to the attention of the trial judge. At an off-the-record conference before the judge between the prosecutor and defense attorneys, the latter expressed concern over the possible impropriety of the procurement and publication of the indictment. They were assured by the prosecutor that the indictment was returned in the regular course of the administration of criminal justice, and were enjoined by the trial judge to accept his word (R. 155, 207-8, 268). This representation was a deliberate falsehood. It was purveyed by the prosecutor to conceal from the Court and the defense the stratagem of the prosecution to "time" the Perl indictment as a means of adducing inculpatory evidence through the channels of the mass media of communication and to convey to the jury the idea that the petitioners were further associated in the business of espionage. Only the passage of time uncovered the purposefulness of the deceit.

Perl's alleged perjury was charged to have been committed before a federal Grand Jury, sitting in the Southern District of New York, on August 18 and September

11, 1950, some seven months prior to his indictment on March 13, 1951 (R. 70, 73).^{*}

The trial of the petitioners commenced on March 6, 1951 and terminated when the jury returned its verdict of guilty on March 29, 1951. The Perl indictment, returned on March 13, was unsealed on the evening of March 14, 1951, by Irving R. Kaufman, the presiding judge in the petitioners' trial (not sitting in the regular criminal part), and a bench warrant issued (R. 74).

David Greenglass, the Government's main witness, had that day completed his testimony. Ruth Greenglass, his wife, the second major witness, on the morning of March 15, was in the midst of cross-examination. Perl was apprehended the night of March 14 and arraigned March 15 (R. 74).

Upon Perl's arrest, the chief prosecuting attorney made a public statement—characterized by the Court below as "wholly reprehensible" (R. 334)—which the press, on March 15, reported to be:

"Mr. Saypol said that Perl had been listed by the Government as a prosecution witness in the current espionage trial. *His special role on the stand, Mr. Saypol added, was to corroborate certain statements made by David Greenglass and the latter's wife, who*

^{*} The Government opposition affidavits, assert that, although "extensive investigation" of Perl's Grand Jury testimony was conducted, only an alleged admission of Perl, made on March 8, 1951 precipitated the indictment (R. 137, 142-43). These affidavits are contradicted by the record (e.g., R. 154, C.R. 304). To support the allegations of *mala fides* of the prosecution, petitioners made an offer of proof to subpoena the minutes of the Grand Jury that returned the Perl indictment, in order to show that the Government had proof, months before its return, to prosecute Perl for his alleged crime. This offer was rejected by the Court (R. 249-50).

The Court of Appeals properly excluded the Government affidavits from its consideration. *White v. Ragen*, 324 U.S. 760 (1945); *Hause v. Mayo*, 324 U.S. 42 (1945); *Williams v. Kaiser*, 323 U.S. 471 (1945). The contradictions established an issue of fact which could be determined only after a hearing, and not on the face of the record. *Walker v. Johnston*, 312 U.S. 275 (1941).

are the key Government witnesses at the trial." (emphasis added) (R. 74)

To the date of the filing of the petition herein, Perl had not been brought to trial, although, over Government resistance, he had repeatedly pressed for an immediate trial. In June, 1952, more than a year after the conclusion of the petitioner's trial, the Government finally revealed its hand by its refusal to try Perl until "the Rosenberg case and related matters have been concluded" (R. 75-77, 180-82).

Upon this record, the Court below concluded that petitioners had made a showing "that [the] publication of the indictment was deliberately 'timed' " by the prosecution (R. 334).

The publication of the Perl indictment was accompanied by sensational front-page stories in every New York City newspaper (R. 70-73). All reportage explicitly connected the indicted Perl in criminal confederacy with the petitioners. The common denominator of banner headline coverage read: "COLLEGE SCIENTIST ARRESTED AS LIAR IN ATOM Spy Case". (R. 70-71). The contents of the news stories exploited Government affirmations of Perl's guilt and its specifications of his alleged enmeshment in espionage to corroborate the testimony of prosecution witness and to endow relationships, innocent on the face of the record, with invidious meaning. The color of veracity was infused into the Greenglass testimony: (1) that the petitioners were confederated in espionage with Ann Sidorovitch; and (2) with a "Cleveland contact", by virtue of the reporting of Perl's former and the Sidorovitches' contemporaneous Cleveland residence (R. 75).

Elitcher's testimony of purely social meeting among himself, Rosenberg, "William Mutterperl" [stated to be Perl's former name] and others (R. 304-5), was given conspiratorial overtones by the stigma which attached to Perl. The disclosure of the prosecutor, reported in the press that

Perl "was part of the whole atom spy investigation and was given money by Vivian Glassman to flee the country" (R. 73), made it impossible, thereafter, for the name of Vivian Glassman to be associated innocently with the petitioners (C.R. 1193-95).

The prosecutor, in the trial itself, made capital of the public indictment of Perl and newspaper accounts which he had himself inspired. At the outset of the cross-examination of Rosenberg, the prosecutor introduced the subject of a Perl-Rosenberg relationship in a manner to evoke, necessarily, information concerning Perl's arrest for perjury and to indicate that his sole interest was to place the name of the indicted Perl before the jury in criminal combination with Rosenberg (R. 75, C.R. 1159-60). In the same way, the prosecutor converted to his service the criminal repute which he had himself publicly attached to the name of Vivian Glassman, to cast doubt on Rosenberg's testimony of their noncriminal association (R. 75; C.R. 1193-98).

The coup effected by the prosecution in the "timing" of the indictment of Perl carried over into the trial period its pre-trial tactic of instigating and promoting damaging newspaper publicity that induced a communal acceptance of the petitioners' guilt and instilled hostility against them.

III

Government Inspired Trial and Pre-Trial Publicity

The petitioners represented that a tremendous and almost unprecedented volume of pre-trial and trial newspaper publicity, caused and stimulated by the prosecutive officials, had deeply ingrained in the public of the Southern District of New York a profound pre-conception of the petitioners' culpability; no jury chosen from among this

section of the population could have escaped that hostile influence in arriving at its verdict (R. 34-35).

The record established in minute detail that at every step in the processing of the prosecution of the petitioners, the Government "fed" information to the press concerning them. (R. 61-69). This information—buttressed by the prestige of the F.B.I., the Justice Department and the local U. S. Attorney's office, from which it emanated—(1) affirmed the guilt of the petitioners; (2) disclosed evidence which it intended to use at the trial, as well as alleged evidence never produced at the trial; (3) asserted that they were Communists and that that ideological tie was the motivation for their crime; (4) connected them with Fuchs and other confessed spies and acknowledged Communists who, it was said, with them, were solely responsible for the Soviet development of the atom bomb (R. 61-69; 161-64).

The first press release—issued jointly by the then Attorney General, J. Howard McGrath, and J. Edgar Hoover, Director of the Federal Bureau of Investigation, on the night of the arrest of the petitioner, Julius Rosenberg—was virtually a pre-trial hearing—without benefit of defense—of the prosecution's case, and a characteristic example of the prejudicial pre-trial revelations made by the prosecutive officials to the press. The statement, detailing almost the full scope of evidence to be presented at the trial, asserted (R. 161-63):

"J. Edgar Hoover, Director of the Federal Bureau of Investigation, in discussing the background of the case, said that Rosenberg is another important link in the Soviet espionage apparatus which includes Dr. Klaus Fuchs, Harry Gold, David Greenglass and Alfred Dean Slack."

" . . . Investigation to date reveals that Rosenberg, an American-born engineer, made himself avail-

able to Soviet espionage agents so he 'could do the work he felt he was slated for' and so he might 'do something to directly help Russia'".

"... his employment was suspended on February 9, 1945, when he was removed by the Secretary of the War Department acting on the recommendation of Rosenberg's commanding officer on the basis of information indicating Communist Party membership. Rosenberg made numerous unsuccessful attempts to be reinstated."

The statement unabashedly announced, as well, the official conviction of Rosenberg's guilt, and qualitatively aggravated the heinousness of his alleged crime (R. 162):

"The gravity of Rosenberg's offense, Mr. Hoover stated, is accentuated by the fact that through his implication in the espionage ring as a native born American citizen he aggressively sought ways and means to secretly conspire with the Soviet Government to the detriment of his own country."

These statements occurred in the context of antecedent and contemporaneous months of widespread and intensive publicity accorded: (1) communism in general; (2) communists as spies; (3) Fuchs' espionage activities, Gold's espionage activities, Greenglass' espionage activities; Brothman and Moskowitz's espionage activities—all resulting either in confessions or convictions, supported by the testimony of witnesses announced to be those who would testify against the petitioners (R. 34-61).

During this period, unlike any preceding or following, there occurred a constant barrage of stories—stemming from Fuchs' and his cohorts' "betrayal"—as to the immediacy, possibility and probability of atomic attack on the United States, in general, and the City of New York in particular (R. 34-61).

Each of these subject matters, almost by common consent, is acknowledged to be a matter of high volatility and passion-arousing qualities. The almost 600 newspaper features, annexed to the petitioners' application, indicate the degree to which the community was saturated with accounts and editorializations of these matters (Exhibits II-XV).

There was no let-up in the publicity which kept the petitioners' alleged misdeeds in the public mind from the time of their arrest to the time of their trial, even though for short periods their specific names may not have received explicit mention. Even in a metropolis as "sophisticated" as New York City, the crime with which the appellants were charged was a *sui generis* "sensation". Even to the "sophisticated" New Yorker, the threat of mass annihilation, predicted as a result of the petitioners' alleged acts, could not be equated with the run-of-the-mill urban "sensations" daily ingested at the breakfast table. The matters concerned were of vital interest to every citizen in terms of his own personal survival, the unprecedented danger of which was represented to him every day, not only by reading the newspapers, but by the urgent effort to whip into shape a functioning civilian defense apparatus immediately capable of coping with the "imminent" danger of attack upon this city and country (R. 56-57).

The Government's announcements concerning the petitioners, in which inhered each subject of the massive publicity set forth in the petition, had the inescapable effect of focussing the public hostility, aroused by each separate subject, upon the petitioners as the embodiment of all, resulting in a public pre-conception of guilt and hostility against them. This evaluation of a public attitude, under the circumstances of this case, is scientifically demonstrable,

as shown by the materials in the Appendix to this petition, submitted herein.⁹

The only conclusion of the Court below, with respect to this showing, was that "the Delaney [*Delaney v. United States*, 199 F. 2d 107 (C. A. 1st, 1952)] publicity [was] more obviously damaging and much closer to the date of trial . . ." (R. 333).

IV

The Atom-Bomb "Secret"

The record shows facts to establish that the Government, or its agents, arbitrarily and capriciously classified the material allegedly transmitted by the petitioners to the Soviet Union as "secret"; and that in fact it was not "secret" but widely known and published throughout the world—and especially in the Soviet Union, the alleged beneficiary of the transmittal (R. 87-112; 123-27).

The Court below relied on the District Court's "assumption" that what the petitioners' application said was so, but, nevertheless, reached the factual conclusion that it could not be said that "in the United States this information has been made public nor . . . that 'it has become available in one way or another to any foreign government.'" The Court below "had nothing to add" (R. 336).

Jurisdiction

The jurisdiction of this Court is invoked under 28 U. S. C. Sec. 1254. The decision of the Court of Appeals for the Second Circuit was entered December 31, 1952.

⁹ The petitioners made an offer of proof of the testimony of an expert on social psychology to aduce proof, taking into account scientific criteria for evaluating mass reaction, to sustain its contention as to the effect of the publicity barrage in this case. This offer was rejected (R. 242).

Statute Involved

The application of the petitioners is founded on 28 U. S. C. 2255, which provides:

"A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

"A motion for such relief may be made at any time. "Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the United States attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto. If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or otherwise open to collateral attack, or that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate.

"A court may entertain and determine such motion without requiring the production of the prisoner at the hearing.

"The sentencing court shall not be required to entertain a second or successive motion for similar relief on behalf of the same prisoner.

"An appeal may be taken to the court of appeals from the order entered on the motion as from a final judgment on application for a writ of habeas corpus.

"An application for a writ of habeas corpus in behalf of a prisoner who is authorized to apply for relief by motion pursuant to this section, shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced him, or that such court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention. June 25, 1948, c. 646, 62 Stat. 967, amended May 24, 1949, c. 139, § 114, 63 Stat. 105."

Questions Presented

1. Whether, in a capital case, circumstantial proof tending to show the knowing use of perjury by the prosecutor to bring about the conviction, is sufficient to warrant a hearing, under 28 U. S. C., Sec. 2255, to determine the issue.
2. Whether, where there is evidence tending to show that there was fraudulent abuse of process by the "timing" of an indictment by the prosecutor of one not then on trial, with the intent to prejudice the rights of an accused, a hearing should be granted, under 28 U. S. C., Sec. 2255, to determine whether there was such an abuse of process.
3. Whether, where there is evidence tending to show that there was a fraudulent abuse of process by the "timing" of an indictment by the prosecutor of one not then on trial, with the intent to prejudice the rights of an accused and having the effect of producing prejudicial publicity during the trial, a hearing should be granted under 28 U. S. C., Sec. 2255, to determine whether the accused was deprived of a fair trial.
4. Whether, when there is evidence tending to show pre-trial publicity of a character to bring about communal prejudgment or guilt and hostility against an accused, originating from statements made by the prosecuting authorities, a hearing, under 28 U. S. C., Sec. 2255, should be granted to determine whether the accused was deprived of a fair trial.

5. Whether, in a prosecution under the Espionage Act, in which the secrecy of the information, the subject of the crime, is an essential element thereof, where there is evidence tending to show that the information was widely known and published, a hearing should be granted, under 28 U. S. C., Sec. 2255, to determine whether the information had been arbitrarily classified by the Government as "secret".

Reasons Why the Writ Should Be Granted

The basic reason why certiorari should be granted is found in the Court of Appeal's sanction of a departure from the accepted and usual course of judicial proceedings, in upholding the District Court in its refusal to direct a hearing on claims which raise serious questions as to decency and fairness in the administration of justice. (1) The decision of the Court below raises the question as to whether a claim of the use by a prosecutor of knowingly perjured evidence to procure a verdict, which is promised on circumstantial evidence alone, may be decided, under 28 U. S. C. Sec. 2255, on the face of the pleadings. The determination reached by the Court below is in probable conflict with the decisions of this Court in *Price v. Johnson*, 334 U. S. 266 (1948) and *Walker v. Johnson*, 312 U. S. 275 (1941). (2) The decision of the Court below raises the question of whether the decisions of this Court in *McNabb v. United States*, 318 U. S. 332 (1943) and *United States v. Mitchell*, 322 U. S. 65 (1944) are broad enough to control the misconduct of quasi-judicial officials, in the interests of the proper administration of justice, where such misconduct amounts to an abuse of the courts and the machinery of law enforcement. (3) The question is raised in this Court for the first time, as to whether this same power may serve to eradicate the expanding evil practice of prosecutors to exploit the power of the

mass media of communication to influence the outcome of judicial proceedings in criminal cases. The decision of the Court below is in probable conflict with that of the First Circuit in *Delaney v. United States*, 199 F. 2d 107 (C. A. 1st, 1952); and (4) The decision of the Court below, in refusing the petitioners a right to be heard on their claim that the information, allegedly the core of the charge against them under the Espionage Act, was not "secret", but widely and publicly known, and arbitrarily classified by Government authorities as "secret", is in probable conflict with the decision of the Court in *Gorin v. United States*, 312 U. S. 19 (1941).

I

Perjured Testimony

The first concern of the just and compassionate mind in a capital case is the concern that no two people shall go to their death where there have been facts shown to indicate that the conviction for which they may die was procured by the knowing and deliberate use of false testimony by their prosecutor, without, at least, affording to them the opportunity to establish their claim. It becomes the urgent concern of this Court when it is recognized that the proposition, on which the decision denying them this opportunity rests, will make a shambles of the landmark decision in *Mooney v. Holohan*, *supra*, and render the "great writ" of *habeas corpus*—and the analogous Section 2255—impotent to perform its function "to make certain that a man is not unjustly imprisoned." *Price v. Johnson*, 334 U. S. 266, 291 (1948)

Section 2255 of Title 28, U. S. C. announces, by its terms, the right of a petitioner to a hearing to determine his right to vacation of his sentence and release "unless the motions and files and records of the case conclusively show that the prisoner is entitled to no relief." The lower Court's deci-

sion, in effect, holds, to the contrary, that unless the moving papers (files and records) conclusively show that the prisoner is entitled to relief, no hearing will be made available. This is the inevitable force of its determination that a court may, without a hearing, resolve the conflict of inferences, arising from facts shown in the record, which tend to establish the right to relief (Compare R. 331 with R. 335-6).

Where the claim to be relieved of a conviction and sentences is founded upon the connivance of the prosecution to obtain the conviction by the use of perjured testimony, it is a rare case that a petitioner, without court process, may unlock from the bosom of the conniving prosecutor, or his perjured witness, direct evidence of their conspiracy. The real vigor of the writ of *habeas corpus*, in these circumstances, on a showing of facts from which it may be inferred that such a conspiracy was effected, lies primarily in the right to a hearing, where the power of the court may produce from unwilling witnesses and from the lips, the files and records of the conspirators, the direct proof which, most often, they alone control. See, e. g., *United States ex rel. Montgomery v. Ragen*, 86 F. S. 382 (N. D. Ill. E. D. 1949).²⁴

The decision of the Court of Appeals deprives the writ of *habeas corpus* of this force and confines the expectation of successful challenge of a contrived conviction to the rare case by assuring the right to a hearing only in those cases where direct proof is made. For the rest, a petitioner must

²⁴ This has not meant that a hearing must be granted where the claim is "palpably unmeritoriousness": i. e., a bald assertion, unsupported by a showing of facts from which the knowing use of perjury may be inferred. *United States ex rel. McCann v. Adams*, 320 U. S. 220, 221 (1943); See: *Casebeer v. Hudspeth*, 121 F. 2d 914 (C. C. A. 10th, 1941); *Ex parte Deatherage*, 98 F. 2d 793 (C. C. A. 9th, 1938); *Tinkoff v. United States*, 129 F. 2d 21 (C. C. A. 7th, 1942); *Sanders v. United States*, 183 F. 2d 748 (C. A. 4th, 1950) cert. den. 340 U. S. 921.

run the gamut of a court's speculations in regard to the meaning and portent of the *circumstantial* facts alleged, and suffer its conclusion, *deduced* from those facts, as a substitute for the conclusive proof adducible at a hearing. The logic of *Walker v. Johnson*, 312 U. S. 275, 286-7 (1941), directs that such contradictory inferences should "only serve to make the issues which must be resolved by evidence taken . . . [on a hearing] . . . not by the pleadings and affidavits".

The unjust and absurd result of the adoption of the contrary practice is made apparent by this case.

Where the witness Schneider testified he had not seen the petitioners between May or June, 1950 and "today" (the day he testified), although, in fact, he had been secretly introduced into the courtroom by the prosecutor "yesterday", the Court concluded that Schneider's testimony "was not intentionally false," on the basis of its speculation that "before today" was generally understood by the parties to mean "before three weeks ago" (i. e. "before the trial"). This witness, the record shows, was not certain of his identification of the petitioners as the takers of passport photos in his shop. The prosecutor, the record shows, knowing this, secured the witness a pre-view of the petitioners, in deliberate violation of the trial court's ruling excluding witnesses. Surely, Schneider's testimony, available only at a hearing, is most apt to ascertain: (1) whether he misunderstood the denotation of "today", or (2) whether he deliberately failed to mention the prior identification to secure his testimonial probity and/or to conceal his violation of the court's order. Surely, the testimony of the prosecutor, and his aides is most appropriate to determine: (1) whether the prosecutor—in permitting the witness to testify and in explicitly affirming the veracity of it (C. R. 1429 and C. R. 1437)—misunderstood the use of the words "before today", or (2) procured or permitted this wit-

ness to testify falsely to conceal his deliberate violation of the trial court's order.

Where the witness Greenglass testified at the trial that from the *immediate* time of his apprehension he did not "conscientiously withhold" any information concerning his criminal involvements, and that he did not tell his lawyer to "fight" the case, and where (1) the attorney for the witness stated, after the trial, that the witness had "co-operated" "almost from the outset", and (2) the prosecutor himself revealed, after the trial, that, at first, the witness had "protested his innocence", and that only later, after the intervention of his wife, did he make a "recantation of those protestations", and, (3) other circumstances existed to show that Greenglass was not immediately "co-operative", the Court decided that the witness had not lied, on the basis of its speculation that (1) "almost from the outset" meant "almost from the outset"; and that (2) "recantation" did not mean "recantation", as the word is usually understood. Surely (1) the testimony of the witness himself (now in Government custody); (2) the testimony of the witness' wife, now at liberty at the sufferance of the Government; (3) the testimony of the prosecutor, verifiable by his files and records; and (4) the testimony of the attorney for the witness and his wife, verifiable by his files and records, are the only sound basis on which to evaluate the verity of the conflicting inferences which may be drawn from the facts shown.

Undoubtedly the most aberrant aspect of the decision of the Court below was its treatment, in the same respect, of the most crucial allegations of the petitioners' application with reference to Greenglass' perjury, relating to the production and pre-trial reproduction of a sketch of a cross-section of the Nagasaki atom-bomb and its accompanying twelve-page report. The egregiousness of the Court's deci-

sion here is further emphasized by its singular misconception of the petitioners' claim of perjury.

The opinion of the Court clearly shows that the Court was unaware:

(a) that the petition alleged any perjury and its knowing use, in relation to the testimony of Greenglass that he had been able, during the trial, wholly from memory and without aid from any other source, to produce Exhibit 8 and the accompanying explanatory testimony. (*On the contrary, the Court assumed that such allegations of perjury, and the knowing use of perjury, were confined solely to Government Exhibits 2, 6, and 7, alleged replicas of sketches only of the lens molds used in atomic bombs*);

(b) that the record contained the affidavits of the scientists Kaiser, Crowther and Hadamard attesting that it was inconceivable that Greenglass, with his conceded total lack of scientific education or training, could have performed this feat; *or that Kaiser had further attested that it was likewise inconceivable that Greenglass could even have produced the alleged original of Exhibit 8 and of the twelve-page explanatory report.* (Again, the Court assumed that such affidavits, like the assumed allegations of the petition, were confined solely to Exhibits 2, 6 and 7, sketches of the lens mold.)

As a consequence, the Court of Appeals could not have been aware of the fact that the grounds given in their opinion for rejecting the allegations of perjury and knowing use of perjury in connection with Exhibits 2, 6 and 7, the sketches of the lens molds, and for rejecting the affidavits of such scientists with reference to such lens molds, had in any event no application to the allegations respecting Government Exhibit 8, *the sketch of the cross-section of the Nagasaki atom-bomb* or to Greenglass' explanatory material.

These reasons given by the Court for rejecting the opinions expressed in the affidavits of the scientists were as follows:

"In support of their renewed assertion of his perjury, defendants, on the Sec. 2255 motion, presented the affidavits of four scientists who express the opinion that Greenglass, with his limited education as shown at the trial, could not have made the sketches from memory. *Since none of them knew Greenglass, none was in a position to give an opinion about the quality of his memory, which no matter what his education, may have been amply sufficient for this purpose* (fol. 488). As additional evidence concerning Greenglass' memory, these opinions, assuming *arguendo* they would be admissible at a trial, are wholly inadequate to justify a new trial. *The affidavits bear solely on the credibility of his testimony and that issue was properly submitted to the trial jury for decision.*" (Italics supplied.)

These grounds, even were they valid, which they are not, as to Exhibits 2, 6 and 7, sketches of the lens molds, are, in any event, wholly inapplicable to the opinions expressed in the affidavits with reference to Exhibit 8, *the sketch of a cross-section of the atom-bomb* and to Greenglass' descriptive testimony.

The affidavit of Kaiser (and, at least inferentially of Dr. Hadamard) stated that it was inconceivable that Greenglass could, wholly from memory, have reproduced during the trial, Exhibit 8 and his descriptive testimony relating to that exhibit. *This statement had essentially nothing to do with any question of Greenglass' memory.* The real basis of the opinion that Greenglass could not have reproduced such material was that his conceded lack of scientific education and training, made it inconceivable that he had the intellectual capacity ever to have produced such informa-

tion generally, and, therefore, there was nothing on which his memory could have operated.

While Greenglass testified that he had seen blueprints of the lens mold, represented by Exhibits 2, 6 and 7, and had actually participated in the production of such lens molds, Greenglass did not testify that he had ever seen a blueprint of a cross-section of the atom-bomb. Instead, his alleged original production, in September, 1945, of a sketch of such cross-section of the bomb and of twelve pages of descriptive material as to its component elements and principles of its operation, was avowedly based on nothing more than the overhearing of unspecified conversations between unidentified persons at Los Alamos.

Kaiser, knowing the scientific knowledge necessary to produce a cross-section of the atom-bomb and twelve pages of descriptive material as to its component elements and principles of operation, was in a position to express an expert opinion as to whether Greenglass, or anybody else, with such conceded lack of scientific knowledge and training, could have produced such cross-section and descriptive material of the atom-bomb, merely from overhearing unspecified conversations at Los Alamos, and without ever having seen even a blueprint of such bomb.

That this scientific opinion was sufficient to raise an inference of perjury on the part of a witness who testified he was able to so perform is grounded in reason and in law.²⁶

"Should a person affirm that black was white or white was black, or being in the full possession of his faculties, and having unrestricted use of his limbs, should

²⁶ The issue raised, as can thus be seen, is one of capacity (and, therefore, perjury), and not of credibility. This issue, unlike credibility, was not before the jury, but was kept from it by the ruling of the trial court which prevented the Government's expert, Derry, from responding to the sole question in the record directed toward eliciting proof of capacity. The Court of Appeals, therefore, could not properly have said that the issue had been "submitted to the trial jury for decision" (R. 336).

testify that he actually and necessarily occupied a year in walking a mile, his statements would be so in conflict with recognized possibilities as to be entitled to no credit or character as evidence." *Matter of Harriot*, 145 N. Y. 540, 546 (1895).

Accord: People v. Galbo, 218 N. Y. 283 (1916); *People v. Bentley*, 357 Ill. 82 (1934); *People v. LeBlanc*, 221 P. 2d 236 (1950); *Liggins v. United States*, 291 F. 888 (App. D. C., 1924).

The Court below, on the face of the record, here again, on the basis of its own understanding, determined that the affidavits submitted were "inadequate" to raise the inference of perjury.

The issue is, therefore, squarely put before this Court, in each instance, whether on the showing made, the petitioners were entitled to be heard in proof of their claim.

It should not be left to the speculative musings of a court to determine whether facts, on their face, mean one thing or another, when objective determination is possible. The general impatience of the courts with the processing of collateral attacks on judgments should not be allowed to develop from an attitude of annoyance to a hardened rule, which will foreclose, not only irritation, but justice as well.

Certainly, where two lives are at stake, basic rights should not be made to depend on intellectual sleight of hand.

II

The Peri Incident

The record before this Court is acknowledged by the Court below to make a showing of misconduct on the part of the prosecutor, which could not be "too severely condemned", so "wholly reprehensible", and productive of prejudice to the petitioners so beyond recall that "a new



trial . . . should have been granted" (R. 334). Yet, the Court of Appeals withheld its command to accomplish that which, in its judgment "should have been" done. The Court, thus, uniquely, consigns two people to their deaths upon its own confirmation of the corruption of the verdict upon which the convictions rest.

The unseemly result of the determination of the Court below provides evidence enough of a departure from the decisions of this Court, which enjoin upon the lower federal courts the duty, especially where life is at stake, to make effective application of the broad right of an accused to a fair verdict. See, e.g. *Hysler v. Florida*, 315 U. S. 411, 413 (1942); *Mattox v. United States*, 146 U. S. 140 (1892). More, the decisions of the lower courts here, taken together, evince a pragmatic concern to uphold the convictions, for each develops its own rationale, one no more justified in law than the other, to arrive at the same indefensible conclusion.

Propounding the law of the case, the Court of Appeals, on the record before it, concluded that a showing had been made, in the exposure of the "timing" of the return of the Perl indictment to break in the course of the petitioners' trial, of a scheme on the part of the prosecutor designed to injure the petitioners and concealed from the trial court by his deliberate misrepresentation.¹⁰ It held, however, that the "essence of the wrong" done the petitioners did not lie in this calculated fraud upon the court, but in the resultant prejudicial publicity. The publicity it deemed to be prejudiced—and characterized as "wholly reprehensible"—was the prosecutor's "statement made to the press to

¹⁰ The District Court, on the same showing of facts, reached the contrary conclusion. Although the Court of Appeals praised the District Court's opinion as "able, careful and comprehensive" (R. 330), this divergence, and others noted hereinafter, seriously put into question apologies of the District Court for the conduct of the prosecuting authorities challenged by the petitioners' application.

the effect that the government had expected to use Perl's testimony to corroborate the Greenglasses, and the intimation that because he backed out he had been indicted for perjury" (R. 334). The prejudice created by this statement, the Court was willing to assume, could not have been corrected except by a new trial. The omission of the petitioners to move for a new trial, however, the Court concluded, ousted them of their claim to relief now.¹¹

The decision absolves, in result, the improbity of an unscrupulous prosecutor, by shifting the responsibility for the fairness of the trial to the victims of his malfeasance.

Since *Berger v. United States*, 295 U. S. 78 (1935), it has been assumed that a United States Attorney, as a "representative of a sovereignty whose obligation . . . [is] that justice shall be done", has a duty, in the public interest,

¹¹ Since the Court rests its refusal to vitiate the verdict on the failure of the petitioners to move for a new trial, it is reasonable to assume that it did not mean to infer that the absence of "evidence that any juror read the newspaper story" would preclude relief, as a matter of law. In this connection, however, it is significant to note that the three admonitions of the trial judge, given prior to the Perl incident, directed only to matter respecting "this particular case" (C.R. 153, 194, 403), did not prohibit the jury from reading press coverage such as that concerning Perl. Only after the Perl stories had broken, did the trial court, as if quietly to close the barn door after the horse had gone, add the single phrase: "or anything related to it" (C.R. 847). No instructions other than these four were given during the entire trial. (C.R. 258, 320, 486, 522, 636, 698, 756, 816, 871, 949, 1024, 1072, 1132, 1187, 1248, 1309, 1364, 1441). Furthermore, the newspaper reports which accompanied the publication of the indictment by virtue of the mere linkage of Perl's name with Rosenberg and others, of importance, mentioned at the trial, were fully as damaging to the petitioners, as the single statement referred to by the Court. These reports appeared prominently in every New York City newspaper. Under these circumstances, the courts agree, that it will be presumed that the matter came to the jurors' attention. See *Holt v. United States*, 218 U.S. 245 (1910); *Griffin v. United States*, 295 F. 437 (C.C.A. 3rd, 1924); *Harrison v. United States*, 200 F. 662 (C.C.A. 6th, 1912); *Ogden v. United States*, 112 F. 533 (C.C.A. 3rd, 1902); *United States v. Ogden*, 105 F. 371 (D.C.E.D. Pa. 1900); *Morse v. Montana Ore-Purchasing Co.*, 105 F. 337 (C.C.D. Mont., 1900); *Meyer v. Cadwalder*, 49 F. 32 (C.C.E.D. Pa. 1891).

"to refrain from improper methods calculated to produce a wrongful conviction", which subsumes the protection of the rights of an individual accused to the due performance of that duty. *New York Central R. R. Co. v. Johnson*, 279 U. S. 310 (1929); *Pierce v. United States*, 86 F. 2d 949 (C. C. A. 6th, 1936). Where violation of this duty is "designed and an improper purpose its only explanation" it becomes the "essence of a wrong" in which are involved, not only the rights of an accused, but "the public interest in the maintenance of the nation's courts as fair and impartial forums, where neither bias nor prejudice rules . . ." *Pierce v. United States*, *supra*, at 953. The correction of this wrong is an obligation which the courts have held they themselves owe to that "paramount consideration", and from which an accused must necessarily benefit, although he may neither waive nor frustrate its accomplishment. *Viereck v. United States*, 318 U. S. 236 (1943); *New York Central R. R. Co. v. Johnson*, *supra*; *Estep v. United States*, 140 F. 2d 40 (C. C. A. 10th, 1943); *Pierce v. United States*, *supra*; cf. *Glasser v. United States*, 315 U. S. 60, 71 (1942).

The threat which cold, calculated violation of duty bears to the lawful administration of the law, has moved this Court, in other circumstances, as a policy measure, to overturn verdicts which are the "fruits of wrongdoing". Cf. *McNabb v. United States*, 318 U. S. 332 (1943); *United States v. Mitchell*, 322 U. S. 65, 70 (1944); *Meyer v. Cadwalader*, 49 F. 32, (C. C. E. D. Pa. 1891); *Vaughan v. Magee*, 218 F. 630 (C. C. A. 3rd, 1914).

"Judicial supervision of the administration of criminal justice in the federal courts implies the duty of establishing and maintaining civilized standards of procedure and evidence. Such standards are not satisfied merely by observance of those minimal historic safeguards for securing trial by reason which are sum-

marized as 'due process of law' . . ." *McNabb v. United States*, *supra*, at 340.

The character of the misconduct here—deliberate in its inception and deceitful in its concealment from the court—evidences such a wanton unconcern for duty, disrespect for the trial court, and depraved disregard for the rights of the petitioners, on trial for their lives, as to have called for a display of the maximum disciplinary power of the Court. As Judge Frank has remarked, in another connection: "Government counsel, employing such tactics, are the kind who, eager to win victories, will gladly pay the small price of a ritualistic verbal spanking." *United States v. Antonelli Fireworks Co.*, 155 F. 2d 631, 661 (C. C. A. 2d, 1946). In fact, the prosecutor here is a case in point of the inefficacy of a prior admonition [see: *United States v. Remington*, 191 F. 2d 246, 252 (C. A. 2d, 1951)] to act as a deterrent to future "reprehensible" conduct. The obligation of an accused to try his case with one eye on the newspapers, which the decision of the Court of Appeals imposes if the "prejudicial publicity is deemed the sole essence of the wrong", has not before been demanded. See, e. g. *United States v. Marrin*, 159 F. 767, 771 (D. C. E. D. Pa., 1908). It makes worthwhile a risk on the part of a prosecutor that his misconduct will go undetected by parties properly concentrating on the conduct of their cases in the court. *Ibid.* It becomes unprofitable only if the corruption is chargeable to its source, and results, *per se*, in the vacation of the ill-begotten conviction.

The indictment and the arrest of Perl had the effect the event was calculated to achieve. The front page of every newspaper screamed to the public that the Government had caught a "perjurer" who was associated with the "spy" Rosenberg. It was generally reported that his perjury was connected with the investigation of a "Soviet

atomic spy ring", some of whose members were then on trial (R. 73-75). The charge against him, that he denied knowing the "members" then on trial and those alleged to be in illegal confederacy with them, was also stated in the press. No sophisticated reasoning was required to infer from the reported facts that had Perl told the truth he would have inculpated the petitioners. This implicit understanding was made explicit by the statement of the prosecutor, which the Court of Appeals denounced, and declared to be so prejudicial to the petitioners that it, alone, would have warranted a mistrial (R. 333-4). *A fortiori*, the clear implication inherent in the entire press coverage, although overlooked by the Court, must necessarily be considered to have had the same effect. It would, obviously, not have occurred had the prosecutor not contrived to secure the return and publication of the indictment. It is, therefore, as effectively a consequence of his misconduct as the statement issued from his lips.

The disposition which the Court of Appeals made of this, in their view, the "essence of the wrong" done the petitioners, does violence to reality and constitutes an abrogation of its duty to protect the fundamental rights of an accused.

The Court assumed that the omission of the petitioners to move in respect to the single "wholly reprehensible" statement of the prosecutor, represented their "deliberate choice" to go on with the trial in the face of, what the Court considered to be, circumstances fatally prejudicial to them.

It inferred from this assumed "choice" that the petitioners "obviously concluded that the prosecutor's statement to the press had not prejudiced the jury against them" (R. 334). The Court on this basis decided: "Having themselves so concluded, they may not, after an adverse verdict, ask the court to reach a contrary conclusion." This deter-

mination turns well-rooted concepts of due process on their heads.

The due process clause invalidates a conviction which, in fact, has been corrupted by passion and prejudice. The record here makes an inescapable factual showing of extensive prejudicial newspaper publicity accompanying the "timed" Perl indictment. The Court apparently accepted this to be the objective fact when it ruled: "if the defendants had moved for a new trial, it should have been granted" (R. 334). The contrary *opinion* of the petitioners—assuming *arguendo* this to be their opinion—"can hardly legalize a procedure which conflicts with accepted principles of due process." *Lee v. Mississippi*, 332 U. S. 742, 744-46 (1948). Nor can it, according to this Court, preclude the accused from raising the due process issue. *Ibid.*

The fundamental vice of the entire structure of legal half-truths upon which the Court supports the foreclosure of the petitioners' right to be relieved of this tainted verdict, is that it is based on a factual void. The record cannot sustain a conclusion that the petitioners' omission to move for a mistrial was the result of a "deliberate choice."

The Court arrives at this conclusion by deduction from two facts alone: (1) the omission to move, (2) "after conferring with the judge" (R. 334). To justify the assumption of "deliberate choice", the facts, upon which the Court relied, had to establish conclusively that the petitioners voluntarily relinquished a right, they knew themselves to have, to the declaration of a mistrial. *Adams v. United States ex rel. McCann*, 317 U. S. 269 (1942); *Patton v. United States*, 281 U. S. 276 (1930); *Glasser v. United States*, *supra* at 72. The state of facts upon which the Court relied may not, as a matter of law, be conclusive. *Glasser v. United States*, *supra* at 70. The actual facts, as shown by the record, contradict the conclusory assumption of deliberate choice, which, in any event, could not properly be

reached except after the taking of oral testimony. *Price v. Johnson*, 334 U. S. 266 (1948); *Walker v. Johnson*, 312 U. S. 275 (1941).

The record shows that the petitioners' counsel entered into the off-the-record bench conference out of apprehension of prejudice, but with no knowledge of it. He was aware only that a headline in the New York Times reported that William Perl had been indicted on a charge which linked Perl's name with the Rosenbergs (R. 155, 207; C. R. 756-7, 816). Neither petitioners' counsel, nor counsel for the co-defendant, Morton Sobell, with whom he conferred, had read the newspaper reports of Perl's indictment and apprehension, including the reported statement of the prosecutor (R. 333-4), which, according to the Court, created the prejudice against the petitioners (R. 155, 207). Nor was it proper "to charge him or his client with the knowledge of such publications during the trial." *United States v. Marin, supra*. At the conference, the record shows the prosecutor made representations, whose falsity could not have been determined until over a year later, as to the regularity of the return of the Perl indictment (R. 155, 207-8). Given this regularity, it was valid to proceed upon the assumption that the publication of the indictment and factual press reports of it, though invidious in effect, would not support a motion for a mistrial. *United States v. Francis*, 144 F. 520 (E. D. Pa., 1906), *sentence mod.* 152 F. 155, cert. den. 206 U. S. 565.¹²

Petitioner's counsel left the bench conference no more aware of the prejudicial press reports than when he entered it, and with a mind, seduced by the misrepresentation of the

¹² The District Court in this case ruled: "A defendant may not demand that the machinery of law enforcement be stopped while his trial proceeds, or that the prosecution of others, who as he, are charged with violating the law, be held in abeyance until his trial has been completed." (R. 15)

prosecutor, that a motion for a mistrial could not prevail. The circumstances of this case, are unlike that of *Spreckels v. Brown*, 212 U. S. 208 (1909) on which the Court below relied. There, defense counsel, with full knowledge of the facts which could injure his cause, and of his right, therefore, to the relief which the trial judge offered it, stated: "Let the jurors read the papers, we will take our chances." *Id.* at 214. Here, it cannot be inferred that counsel's inaction was prompted by a desire to take his chances with this jury; eight motions for a mistrial were made during the course of the trial (C. R. 184, 185, 1037, 1039, 1199, 1200, 1378, 1442).

The conclusive showing, on the entire record, is a negation of "deliberate choice". The demonstration is of the petitioners' intention to exercise all rights accruing to them, coupled with an unawareness of the existence of facts from which the conclusion could be drawn that the right to the declaration of a mistrial, in this instance, had accrued.¹³

To have expected the petitioners, under these circumstances, to have moved for a new trial, would have been to have required of them a sixth sense. Yet, if the fact that "they did not so move", where, had they "moved for a new trial, it should have been granted", should not, in this case, have foreclosed relief.

The decisions of this Court require that "in exceptional circumstances, especially in criminal cases" errors will be corrected where they "seriously affect the fairness, integrity or public reputation of judicial proceedings", even though

¹³ Since the petitioners were no more aware of the circumstances surrounding the Perl indictment when their motions for a new trial were made on April 5, 1951, one week after the return of the verdict, than at the time of the return of the Perl indictment, the observation of the Court of Appeals that the "petitioners did not mention the prosecutor's statement in their motions" (R. 335), is inapposite. Nor could the petitioners have raised the question, as the court suggests, in the criminal appeal, since the subject matter necessarily was *dehors* the record.

not objected to or made the subject of motion by trial counsel. *United States v. Atkinson*, 297 U. S. 157, 160 (1936); *New York Central R. R. Co. v. Johnson*, *supra*; *Wiborg v. United States*, 163 U. S. 632 (1896); *Pierce v. United States*, *supra*.

This mandate the Court of Appeals did not follow.

A verdict contaminated by the fraud, chicanery and deceit of the prosecutor—a “servant of the law”; a conviction upheld which “should have been” overthrown; the taking of two lives under such a judgment—these, surely, “seriously affect the fairness, integrity and public reputation of judicial proceedings.”

It remains with this Court to right the egregious wrong.

III

Government Inspired Pre-Trial and Trial Publicity

This case, in the words of Mr. Justice Jackson, “represents one of the best examples of one of the worst menaces to American justice” [concurring with Frankfurter, J., in *Shepherd v. Florida*, 341 U. S. 50, 51 (1951)]: the practice of prosecutors—standard operating procedure in important cases—to exploit the power of the press to surround a defendant, before and during trial, with an enveloping hostile atmosphere and to create a public pre-conception of his guilt.

This practice, over the years, has been variously lamented as “unfortunate,” a “serious mistake,” a “gross impropriety,” “ill-judged and improper,” “not to be commended,” and to be “seriously condemned.” See: *Leviton v. United States*, 193 F. 2d 848 (C. A. 2d, 1951) cert. den. 343 U. S. 946; *Allen v. United States*, 4 F. 2d 688 (C. C. A. 7th, 1924) cert. den. 267 U. S. 597; *Paschen v. United States*, 70 F. 2d 491 (C. C. A. 4th, 1934); *Shushan v. United States*, 117 F. 2d 110 (C. C. A. 5th, 1941) cert. den. 313 U. S. 574;

Kersten v. United States, 161 F. 2d 337 (C. C. A. 10th, 1947) cert. den. 334 U. S. 850.

But, like the weather, this has been a concern that “everybody has talked about but nobody has done anything about.” The judicial habit of helpless piety now confronts the courts with a situation “constantly growing worse,” “all too prevalent” and “becoming all too typical of a highly publicized trial.” *Shepherd v. Florida*, *supra* at 51; *Allen v. United States*, *supra*; Opinion herein of Ryan, J., in the District Court (R. 13). The most hard-pressed defendants are the ones made to suffer convictions which “do not meet any civilized conception of due process of law.” *Shepherd v. Florida*, *supra* at 53; and see, dissent of Frankfurter, J., in *Stroble v. California*, 343 U. S. 181, 198-201 (1952). The District Court, in this case, conceded as much, stating in its opinion:

“The issuance of ‘releases’ and ‘statements’ [which ‘may have prompted, encouraged or generated publicity] by the quasi-judicial officials entrusted with the heavy burden and grave responsibility of prosecution giving in advance of trial details of evidence which it is expected will be introduced at trial is all too prevalent a practice, which should not be encouraged . . . It is opposed to all fundamental concepts of due process . . .” (R. 13).

The contemporary understanding of the operation of the communal mind has evoked the recognition that its intellectual seduction produces a result, not different in essentials from “that which was found a denial of due process in *Moore v. Dempsey*, 261 U. S. 86.” *Shepherd v. Florida*, *supra* at 54; see: *Fouquette v. Bernard*, 198 F. 2d 96, 98 (C. A. 9th, 1952).

The courts and the bar—including several members of this Bench—have expressed growing concern that the existing wrong find its remedy. See: dissenting opinion of

Frankfurter, J., in *Stroble v. California*, *supra*; memoranda opinions in *Leviton v. United States*, 343 U. S. 946 (1952); *Maryland v. Baltimore Radio Show*, 338 U. S. 912 (1950); *Weber v. United States*, 73 S. Ct. 42 (1952); *Shepherd v. Florida*, *supra*.

The First Circuit in *Delaney v. United States*, 199 F. 2d 107 (C. A. 1st, 1952), met the problem and reached its decision on concepts of law which it evolved to accommodate the facts of life. Insofar as the instant case arises from equivalent circumstances, and relief denied, on the basis of archaic formulae unsuited to cope with this essentially modern dilemma, the cases are in conflict. The due and proper resolution of the conflict by this Court is essential both to the administration of federal criminal justice and to eliminate the terrible suspicion that American justice can tolerate the forfeiture of two lives upon convictions "which do not meet any civilized conception of due process of law."

The *Delaney* case accepts the principle that, where prosecuting officials and the Department of Justice "feed" to the press material, tending to indicate the guilt of a defendant, which results in damaging massive pre-trial publicity and a consequent communal prejudgment of guilt, it is "neither right nor in harmony with the spirit of the Sixth Amendment," to let stand the foreordained conviction.

A seeming adherence to this principle inheres in the decision of the Court below, in that it purports to evaluate the adequacy of the petitioners' showing within the frame of reference of the *Delaney* case. The single aspect, however, in which the Court holds, that the petitioners, as a matter of law, are entitled to no relief, reveals the Court's lack of understanding of the fresh concepts of the *Delaney* case, and the conflict of the decisions. The Court below ruled:

"On the *voir dire* the prospective jurors were carefully questioned as to whether they had read or heard about the case and a jury was selected satisfactory to

the defendants, who did not even use all of the peremptory challenges permitted them. Nor do they allege that any trial juror was in fact prejudiced by the publicity now asserted to have made a fair trial impossible" (R. 332).¹⁴

The decision in the *Delaney* case is premised on the realistic proposition that, not only is overt proof of a subverted jury mind an impossible burden, but it is, as a matter of law, an unnecessary one. That court by Magruder, J., expressed its rationale to be:

"One cannot assume that the average juror is so endowed with a sense of detachment, so clear in his introspective perception of his own mental processes, that he may confidently exclude even the unconscious influence of his preconceptions as to probable guilt, engendered by a pervasive pretrial publicity. This is particularly true in the determination of issues involving the credibility of witnesses." *Delaney v. United States*, *supra*, at pp. 112-113.

And the opinion logically extends the thesis:

"Since he was obliged to stand trial in the hostile atmosphere engendered by the extra-courtroom publicity, he had little or no reason for assuming that one juror rather than another would be more likely to be influenced, consciously or unconsciously, by his preconceptions—all of them having affirmed, in answer to inquiry by the trial judge, that they were prepared to determine *Delaney's* guilt or innocence solely on the basis of evidence produced at the trial." *Id.* at 114.

The weight of scientific opinion supports this view. (See Appendix to petition.)

¹⁴ It might well be noted that many of the prospective and chosen petit jurors acknowledged that they "remembered" having heard or read about the case prior to trial, and the trial court's affirmation: "I think that is a fair assumption." (C.R. 63).

In respect to the petitioners' demonstration of objective facts tending to establish the existence of publicity from which an inference of communal prejudice and hostility could be drawn, the Court below did not deny the sufficiency of the showing. It merely finds—in an understatement not warranted by the record: “. . . the *Delaney* publicity [was] more obviously damaging and much closer to the date of trial . . .” (R. 333).

The Court, however, treats its estimate of the subjective belief of petitioners' counsel as conclusive evidence of the non-existence of prejudice resulting from the publicity. The Court drew the inference as to counsel's belief from the omission of the petitioners to move either for a change of venue or for a new trial. The exploitation of these omissions as “evidence” of the pre-trial climate is an ingenious circumvention of the refusal of the courts to preclude collateral attacks on a conviction, effected by damaging pre-trial publicity, for failure to make either motion or both. *Stroble v. United States, supra* (no pre-trial motions made); *Delaney v. United States, supra* (failure to move for change of venue); *Morse v. Montana Ore-Purchasing Co., supra* (failure to move for a continuance).

The conclusion, moreover, is based on a record which shows counsel affirmatively to have stated (R. 152-53):

“I most emphatically deny that I made a deliberate choice in tactics by failing to raise the issue of pre-trial publicity as a deprivation of due process of law. I could make no ‘deliberate choice’ because I was unaware that I had a choice.”

This unawareness, counsel further stated, resulted from the unavailability to him, prior to trial, of the “complete picture” of the pre-trial publicity which “required a perusal and analysis of every newspaper and magazine circulated in the metropolitan area.” His inability to acquire a

“complete picture” was a function of his personal habit of “sporadic” newspaper reading, its increased “infrequency” in the course of preparation for trial, and the fact that “only . . . within the last few months” did he acquire sufficient funds¹⁶ “to probe the newspaper materials that surrounded this case, which led [him] to the conclusion that it was proper to raise the issue of the pre-trial publicity” (R. 152-53).

This precise state of facts was envisioned by this Court, in *Price v. Johnson, supra* at p. 291, as “justifiable” reasons for not making earlier application for relief. The Court there stated:

“ . . . The primary purpose of a *habeas corpus* is to make certain that man is not unjustly imprisoned. And if for some justifiable reason he was previously unable to assert his rights or was unaware of the significance of relevant facts, it is neither necessary nor proper to deny him all opportunity of obtaining judicial relief.” (Emphasis ours.)

Price v. Johnson, supra, and *Walker v. Johnson, supra*, make it completely clear that, in any event, the “justifiability” of the reasons may not be determined on the face of the record, but only on testimony adduced at an oral hearing.

In this case, it was particularly inappropriate to reject, especially on the face of the record, the justifiability of the reason asserted. The “complete picture”, as counsel stated, was indispensable to any judgment of the probability of an effect on attitudes being created or reinforced by mass media. The weight of social-psychological opinion insists that, until full material has been assembled and its bulk and content read, such a judgment cannot reasonably be made

¹⁶ Petitioners, at their trial, proceeded *in forma pauperis*.

(See Appendix, Section A).¹⁸ A comprehension of this concept—or even plain “horse sense”—renders ludicrous the Court’s decision to select petitioners’ counsel—or any one person—as the “guinea pig” of public reaction.

A burden is imposed upon an accused, to secure his presumption of innocence and right to defend from out-of-court influence, to monitor the mass media of communication in the period preceding trial. Where the threat arises solely from publicity deriving from the private initiative and enterprise of newspapers, the courts, presented with a Solomon’s choice in the conflict between the parallel rights to freedom of press and a fair trial, may take pause—although, it is suggested, in this matter that this Court “has not spoken its last word.” *Delaney v. United States*, *supra* at 113.

The instant case, however, as it concerns publicity caused and stimulated by prosecuting officials, presents that aspect of the modern phenomenon of “trial by newspaper” that is controllable in the proper exercise of this Court’s power. Its control, by silencing those who owe a duty of silence, will eliminate perhaps the most damaging influence in “newspaper trial”: the affirmations and opinions of officials, to the prestige of whose office the public generally accords a reputation for infallibility. For this Court to refuse to exercise this supervisory power over the administration of federal criminal justice, will permit the continuance of a practice to which Mr. Justice Frankfurter so eloquently objected in his dissenting opinion in *Stroble v. California*, *supra* at 201:

¹⁸ Such a judgment, in social-psychological opinion, cannot be made with accuracy by laymen, including judges. The petitioners’ offer of proof of the evaluative testimony of a mass psychologist was particularly apposite (R. 242). The rejection of this offer deprived the petitioners of the opportunity to present important substantiating material in support of their claim, and constituted an abuse of the Court’s discretion.

“To have the prosecutor himself feed the press with evidence that no self-restrained press ought to publish in anticipation of a trial is to make the State itself through the prosecutor, who wields its power, a conscious participant in trial by newspaper, instead of by those methods which centuries of experience have shown to be indispensable to the fair administration of justice.”

IV

The Atom-Bomb “Secret”

United States v. Heine, 151 F. 2d 813, 815 (C. C. A. 2nd, 1945), cert. den. 328 U. S. 833, construed the Espionage Act to read that, unless information alleged to be the subject of transmittal—or conspiracy to transmit—to a foreign nation is “secret”, no crime is committed under that law. “Secret” information, as defined by the *Heine* case and *Gorin v. United States*, *supra*, has the meaning accorded to the more common usage: “classified” information.

This gloss was put upon the statute, in the belief that unless it were so limited it would represent a “drastic repression of the free exchange of information,” violative of the First and Fifth Amendment to the Constitution. *United States v. Heine*, *supra* at p. 815; 59 Harv. Law Rev. 617 (1946). The application of the statute to situations beyond the bounds judicially described as proper would, therefore, be without constitutional sanction, and a person so convicted would suffer a violation of his constitutional rights.

The record shows facts to establish that the material, alleged to be the subject of the transmittal by the conspiracy of which the petitioners were allegedly a part, avowed to have been classified as “secret”, was arbitrarily and capriciously so classified. In fact, it was not “secret” material, but scientific and technological matter widely known and published throughout the world.

The Court of Appeals relied on the assumption of Judge Ryan that what the petitioners showed "is so." Under these circumstances, the Court below could not, without a hearing determine that "*United States v. Heine*, 2 Cir., 151 F. 2d 813, cert. den. 328 U. S. 833, upon which the appellants rely, is so different in its fact as to be completely inapposite" (R. 336).

Conclusion

The writ of certiorari should be granted, and the decision of the Court below, affirming an order of the District Court denying, without a hearing, the petitioners' motion for relief under 28 U. S. C. § 2255, should be reversed.

Respectfully submitted,

EMANUEL H. BLOCH,
JOHN F. FINBERTY,
Counsel for the Petitioners.

(7304)

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

APR 8 1953

TELETYPE

Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Holloman
Mr. Sizoo
Miss Gandy

WASH. FROM NEW YORK 8 6-48 PM

DIRECTOR URGENT

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HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY 3042 prt/nlc

8/7 GTR 9

JULIUS ROSENBERG, ET AL, ESP - R. BUREAU AUTHORITY IMMEDIATELY
REQUESTED TO FURNISH TO USA COPY OF REPORT OF SA WAYNE G. HUNT DATED
MARCH THIRTY LAST, TOGETHER WITH PHOTOSTATIC COPY OF STATEMENT OF
DAVID GREENGLASS.

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cc Branson*

EX-108 1953

AIR-TEL
FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

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DATE 7/24/86 BY 2042 pwt/nlc NEW YORK, 4/8/53

Transmit the following Teletype message to: BUREAU

JULIUS ROSENBERG, ET AL; ESPIONAGE DASH R. [REDACTED]

CONFIDENTIALLY ADVISED TODAY THAT EMANUEL BLOCH VISITED ROSENBERGS APRIL 7, LAST. BLOCH STATED THAT HE IS HAVING DIFFICULTY IN GETTING BERNARD GREENGLASS TO SIGN AN AFFIDAVIT TO THE EFFECT THAT DAVID GREENGLASS STOLE TOOLS AND A PIECE OF URANIUM FROM LOS ALAMOS. BLOCH TOLD THE ROSENBERGS THAT IF BERNARD WILL NOT COOPERATE WITH THEM, HE WILL PUT HIS NAME IN ALL THE NEWSPAPERS AND BLAST HIM AS A BROTHER WHO KNEW THE TRUTH WHO COULD SAVE HIS SISTER AND REFUSED TO COOPERATE AND TELL THE TRUTH. BLOCH STATED THAT HE BELIEVED THAT MRS. TESSIE GREENGLASS WAS BEING PAID BY THE FBI. THE GENERAL CONVERSATION ABOUT THE MOTHER DERIDED HER UNMERCIFULLY. JULIUS STATED THAT PERHAPS BLOCH COULD SUBPOENA THE GUARDS WHO SUPERVISED THE VISITS BETWEEN ETHEL AND BERNARD IN AN ATTEMPT TO HAVE THEM SIGN AN AFFIDAVIT THAT THEY OVERHEARD BERNARD AND ETHEL DISCUSSING THE TOOLS AND URANIUM STOLEN BY DAVID. [REDACTED] ADVISED THAT NOBODY WOULD INTERVIEW ANY OF HIS GUARDS ON ANY MATTER WITHOUT FIRST OBTAINING A COURT ORDER. THE REST OF THE CONVERSATION WAS TAKEN UP WITH DISCUSSING

3- BUREAU (REGULAR - REGISTERED MAIL)

JAH:PJS (#6)
NY 65-15348

Approved: [Signature] Special Agent in Charge

Sent _____ M

APR 8 1953
Per 16

FD-36

Mr. Tolson	✓
Mr. Ladd	✓
Mr. Nichols	✓
Mr. Belmont	✓
Mr. Clegg	✓
Mr. Glavin	✓
Mr. Harbo	✓
Mr. Rosen	✓
Mr. Tracy	✓
Mr. Gearty	✓
Mr. Mohr	✓
Mr. Winterrowd	✓
Tele. Room	✓
Mr. Holloman	✓
Mr. Sizoo	✓
Miss Gandy	✓

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FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

NY 65-15348

- 2 -

Transmit the following Teletype message to:

HOW MR. SAYPOL, THE PRESIDENT, JUDGE KAUFMAN AND PARTICULARLY THE
FBI FRAMED THE ROSENBERGS. FOR INFO.

BOARDMAN

cc: MR. BELMONT
AND SUPERVISOR
DOM. INTEL. DIVISION

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

Assistant Attorney General
Warren Olney III

April 14, 1953

Director, FBI

~~CONFIDENTIAL~~

JULIUS ROSENBERG;
ETHEL ROSENBERG
ESPIONAGE - R
(FBI File 65-58236)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY 3042 pjt/plc

RECORDED - 93

Reference is made to Bureau memorandum dated March 24, 1953, in the above-captioned matter, and Bureau memorandum dated March 21, 1953, in the case entitled "David Greenglass, Atomic Energy Act, Theft of Government Property," concerning the efforts of the Rosenbergs to prove Greenglass, main government witness, is unworthy of belief.

As you are aware, the Rosenbergs claim to know that David Greenglass had stolen tools and uranium while employed at Los Alamos and had lied to the FBI when questioned concerning same. The Rosenbergs also claim that Bernard Greenglass, brother of Ethel Rosenberg and David Greenglass, is cognizant of these thefts. You are aware that David Greenglass had been interviewed by the FBI in January, 1950, in connection with this matter prior to our knowledge of his involvement in Soviet espionage. This occurred during the investigation of the case entitled "Government Property, Et Al, Atomic Energy Act, Theft of Government Property," which involved the thefts of uranium hemispheres by numerous employees at Los Alamos. Greenglass denied any involvement in these thefts. In view of the Rosenbergs' allegations, David Greenglass was reinterviewed on March 25, 1953, and admitted taking, as a souvenir, a uranium hemisphere. After his interview by the FBI in January, 1950, he believed he disposed of this material by throwing it into the East River, New York City. The Atomic Energy Commission has been advised of this.

You are further aware, that during the visit of Ethel Rosenberg with her husband, Julius, on March 18, 1953, Julius advised Ethel that Bernard Greenglass was to be encouraged to visit Emanuel Bloch, their attorney, as soon as possible before the FBI could contact him because Bernard "is a weak stuffer."

63 APR 27 1953

APL:cmw

65-59028

COMM - FBI
APR 15 1953
MAILED 25

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WORK

[redacted] has confidentially advised that Bloch visited the Rosenbergs on April 7, 1953. Bloch told the Rosenbergs that he is having difficulty in getting Bernard Greenglass to sign an affidavit to the effect that David Greenglass stole tools and uranium from Los Alamos. Bloch also told the Rosenbergs that if Bernard will not cooperate, he, Bloch, will advise all the newspapers about this and exonerate Bernard as a brother who knew the truth and could save his sister but refused to cooperate and tell the truth. Bloch also commented to them that it was his belief Mrs. Tessie Greenglass, Ethel's mother, was being paid by the FBI. Julius suggested to Bloch that perhaps the prison guards, who supervised the visits between Ethel and Bernard at Sing Sing, could be subpoenaed in an attempt to have them sign affidavits that they overheard Bernard and Ethel discussing the tools and uranium stolen by David. Bloch and the Rosenbergs then discussed how Mr. Sappel, the President, Judge Kaufman, and particularly the FBI framed the Rosenbergs. b7c

[redacted] prison guards cannot be interviewed by anyone on any matter without first obtaining a court order. b7c

You will be kept advised of additional developments in this matter.

SECURITY INFORMATION - ~~CONFIDENTIAL~~

CC - Mr. Belmont

Assistant Attorney General
Warren Olney III

April 21, 1953

Director, FBI

JULIUS ROSENBERG, et al.
ESPIONAGE - R

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY 3042 PWT/PLC

Reference is made to Bureau memoranda dated March 24, March 30, and April 10, 1953, concerning the efforts of Emanuel Bloch, the Rosenberg attorney, to prove that the console table mentioned during the trial by David Greenglass, had been bought by the Rosenbergs at Macy's Department Store, New York City.

There are forwarded herewith Photostats of clippings appearing in the April 13, 1953, issue of the "National Guardian," a pre-Communist weekly publication. It appears from the information in these clippings that in the event the U. S. Supreme Court denies the petition of the Rosenbergs for a writ of certiorari, the Rosenbergs will probably attempt additional legal steps to obtain a new trial on the basis of newly discovered evidence.

It is noted that in the attached clippings it is stated that the console table remained in the Rosenberg apartment until October, 1950, and that this was proof David Greenglass did not tell the FBI about the table until some time after the arrest of Julius Rosenberg in July, 1950. It is contended that if Greenglass had fully cooperated with the Government at the outset, and told the story about the table to which he testified at the trial, the FBI would have taken the table from the Rosenberg apartment when it conducted the search at the time of the Rosenbergs' arrest. It is also contended that since the FBI did not take the table, Greenglass must have withheld this information at the time of his arrest and that the statement that he did not withhold any information from the FBI is perjurious.

In view of the possibility that the Rosenbergs may attempt further legal efforts to obtain a new trial on the basis of the console table story, a check is being

RECORDED - 148

APR 22 1953

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APR 21 1953
COMM-FBI

Ladd _____
Nichols _____
Belmont _____
Clegg _____
Glavin _____
Harbo _____
Rosen _____
Tracy _____
Laughlin _____
Mohr _____
Winterrowd _____
Tele. Rm. _____
Holloman _____
Gandy _____

72 APR 27 1953

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FBI
ROOM

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DIRECTOR

SECURITY INFORMATION - CONFIDENTIAL

made to determine when Greenglass furnished the information concerning the console table and whether our agents, while searching the Rosenberg residence on July 17, 1950, knew about the console table and made a specific search for such a table.

You will be kept advised of additional developments.

Attachment

65-58296

Tolson _____
Ladd _____
Nichols _____
Belmont _____
Clegg _____
Glavin _____
Harbo _____
Rosen _____
Tracy _____
Laughlin _____
Mohr _____
Winterrowd _____
Tele. Rm. _____
Holloman _____
Gandy _____

- 2 -

SECURITY INFORMATION - CONFIDENTIAL

Office Memorandum • UNITED STATES DEPARTMENT OF JUSTICE

Director, FBI

DATE: 4/21/53

TO : SAC, New York (65-15348)

35049

SUBJECT: JULIUS ROSENBERG, ET AL
ESPIONAGE - R

There is forwarded herewith for the information of the Bureau a photostatic copy of a play entitled "The Rosenberg Story" which is to be enacted at Randall's Island Stadium on 4/26/53. This copy of the play was received from Mr. TOOLEY of the Department of Parks of the City of NY.

Special Delivery

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DATE 7/24/86 BY SP-4 BJS/pk

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165-58236-1602

APR 23 1953

ENCLOSURE BEHIND FILE

78 MAY 7 - 1953

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DATE 7/24/86 BY 3042 PWT/MLC

THE ROSENBERG STORY

STAGE IS BARE, EXCEPT FOR SETTING: LARGE
CHAIR FOR JUDGE, CHAIRS FOR JURY. AS
PARTICIPANTS NAKED, THEY ENTER AND TAKE
PLACES.

NARR:

March 29, 1951.

Sun slanting through the dusty windows
of a marble courtroom in Foley Square.
Defendants at the bar, Judge behind the bench
lawyers waiting,
and the jury enters,
foreman with a paper in his hand.

JUDGE: (GAVELS) Mr. Foreman, have you agreed upon a verdict?

FOREMAN: Yes, your Honor, we have.

JUDGE: How say you?

FOREMAN: We, the jury, find Julius Rosenberg -- guilty as charged.

We, the jury, find Ethel Rosenberg -- guilty as charged.

We, the jury, find Morton Sobell -- guilty as charged.

(MUSIC STABS BEHIND EACH, OMINOUS BUT NOT CLIMACTIC.
OFFSTAGE, A BABEL OF VOICES, MURMURING)

JUDGE: (GAVELS) Silence, please. Members of the jury, you are
excused for the balance of the term with the thanks
of the court.

(THE JURY LEAVES) DEFENDANTS STEP TO THE SIDE

NARR:

Between the doubt and the decision:
verdict, judgment.

April 6, 1951 - motions and sentences,
- simple matters, matters of law.

And the country listens, listens to the gavel
pounding, pounding like a heart.

JUDGE: (GAVELLING): (PLEASANTLY) I see everyone is present. The Court
will now hear motions. Mr. Bloch.

65-58236-1602

Enclosure Behind File

(EARNESTLY): Your Honor, the defendants Julius and Ethel Rosenberg move for a new trial and arrest of judgment upon all the grounds mentioned at the beginning of the trial, and on the grounds of adverse rulings by the court throughout the trial, and, third, upon the grounds that the ruling of the Court prejudiced the defendants and denied them the right to a fair and impartial trial.

JUDGE: (GAVELS) Motion denied.

SLOCH: I respectfully except.

JUDGE: I will hear counsel for the defendant Morton Sobell. Proceed, Mr. Phillips.

PHILLIPS: Your Honor, I move for an arrest of judgment on the grounds that the words "Deported from Mexico", which appear on Exhibit 25 are a downright falsehood known to the FBI.

JUDGE: (GAVELS) Motion denied.

Mr. Saypol, are there any motions for the Government?

SAYPOL: Your Honor, the Government moves the sentences of the remaining defendants who stand convicted.

JUDGE: Very well. For sentence: Ethel and Julius Rosenberg. (ROSENBERGS STEP CENTER, BACKS TO AUDIENCE.)

JUDGE: (RISING) In view of the importance of the sentences I am about to impose, I believe it is my duty to give some explanation on respecting them. It is so difficult to make people realize that this country is engaged in a life and death struggle with a completely different system.

Julius and Ethel Rosenberg, I consider your crime worse than murder. I believe your conduct in putting into the hands of the Russians the A-bomb years before our best scientists predicted Russia would perfect the bomb has already caused, in my opinion, the Communist aggression in Korea, with the resultant casualties exceeding 80,000, and who knows but that millions more of innocent people may pay the price of your treason.

(MORE)

What I am about to say is not what you see. I have
documented for hours, days and nights. (PAUSE)
The evidence of the Court upon Julius and Ethel Rosen-
berg, is, for the crime for which you have been
convicted, yet are hereby acquitted to the jurisdiction
of death, and it is ordered upon your stay within the
week beginning with Monday, May first, you shall be
executed according to law. (PAUSE)
Have you anything to say?

(ROSENBERGS JOIN HANDS AS THEY STAND.)

JULIUS: We have said before, and we say again: We are
innocent!

ETHEL: That is the truth. The whole truth.

JUDGE: We shall take a short recess.

(TRIAL PERSONNEL START TO LEAVE WILL STAGE BE
BARE AGAIN.)

HARR: The Trial is over.

The sentences are duly inscribed in the records.

The Rosenbergs, death.

Sobell, 30 years.

David Greenglass, accuser of his sister -- 15 years.

The lawyers leave, the defendants taken away.

And the Judge steps down from the bench removing

the robes that distinguish him from other men,

And now the court room is empty.

Afternoon sun through the stained glass windows

Settles on tables, chairs,

Where lives have been determined

And freedom has been taken away.

In the courtroom--silence

But in this country, among the people

questions, wonder, and the stubborn twist of doubt.

(GROUPS OF PEOPLE MOVE SLOWLY ACROSS THE STAGE,
PAUSING FOR EACH LOUD SPEAKER ANNOUNCEMENT, THEN
MOVING ON)

In the press, with few exceptions,

On the radio, there is no doubt.

Hallelujah, Jubilee!

(FIRST EDITORIAL AND THE CROWD STOPS TO LISTEN)

The heavy artillery of editorials beats in
exultant thunder across the land.

Hallelujah. Jubilee!

HARR:

April 1961 A leading metropolitan paper
(THE CROWD STOPS TO LISTEN. THEN WALKS ON.)

Date: A West Coast paper
(CROWD LISTENS AND THEN WALKS ON.)

Philadelphia, Chicago, Detroit

Up and down the country

Hallelujah. Jubilee...

As on a day of triumph.

But in the cities and towns across the country
questions among the people.

(AS INDIVIDUALS SPEAK, GROUPS STOP TO GATHER AROUND
THEM.)

VOICES: (1)

They say they're innocent. It's Greenglasses' word
against them--no evidence.

(2)

Nazi Generals go free, two people named Rosenberg
have to die.

(3)

What about Axis Sally, the one who was a traitor,
she only got ten years.

(4)

After all Russia was our Ally.

(5)

And the two children, I can't get the children out
of my mind.

(6)

It's the cold war, that's what it is.

HARR:

Date...Chicago Sentinel, a Jewish Newspaper.

We think the sentence was unjust. Judge Kaufman was
carried away by the hysteria which has overtaken
the country....

HARR:

April 1961 The Jewish Daily Forward.

The sentences are too horrible, cruel

HARR:

Date:.....

Date: July 1951; William A. Reuben, a writer visits the office of the National Guardian and speaks to the City Editor.

REUBEN: Mr. McManus, I've got an idea for a series of articles on the Rosenberg Case; would your paper be interested in running them?

McMANUS: We've certainly been getting a lot of mail on it. What do you think of the case?

REUBEN: Mr. McManus, I've read the record and everything else I could lay my hands on and frankly I think it's an outrage. But I don't intend to approach it from the emotional side. I believe the simple facts in the case will speak for themselves.

McMANUS: Got anything on paper?

REUBEN: The first article. (OPENS BRIEFCASE AND TAKES OUT SHEAF OF PAPERS) Here.

McMANUS: (AFTER GLANCING THROUGH PAPERS) How long will it take you to finish the series?

REUBEN: Two or three weeks.

McMANUS: Go to it. My paper will run them.

HARR: The articles come out.

August 1951, the first:

REUBEN: (HE IS SPOTTED ON STAGE, DECLAINING) There is absolutely no documentary evidence to prove the charge against Ethel and Julius Rosenberg. Of all the witnesses who testified against them, only two even linked them to the case in any way.

HARR: The next week...

REUBEN: David Greenglass is a man with no scientific education at all. Yet he claimed that by snooping around and listening to conversation in Los Alamos, he was able to learn the "secret of the atom-bomb" and pass it on to the Rosenbergs. But every prominent scientist in the country, as well as the Atomic Energy Commission, has admitted there is no "secret" to the atom-bomb and never was one.

HARR:

Hall pours in to the Guardian. The third article appears:

REUBEN:

Time after time, Judge Kaufman displayed his bias to the Rosenbergs. Although Communism had nothing whatsoever to do with the case and was not mentioned in the indictment, he constantly permitted the Government to make references to Communism and allowed such questions and testimony to stand on the record. Yet when Defense Attorney Alexander Bloch moved for a mistrial upon the grounds that the Court prejudiced the case against the Rosenbergs, Judge Kaufman brushed the motion aside and challenged the defense's sincerity in making it.

HARR:

Date: August 1951 -The Fourth article

REUBEN:

The sentence of death for the charge of conspiracy to commit espionage is unprecedented in the United States in time of war or peace. There are the strongest doubts of the Rosenbergs' guilt. All signs point to a grave miscarriage of justice in this case. It is up to the American people to decide whether this cruel and unusual punishment shall be carried out.

HARR:

In October 1951, a group of men and women including friends and neighbors of the Rosenbergs, meet in New York City and decide that something can be done.

CHAIRMAN:

I think we're ready for some motions now. Joe.

JOE:

I move we constitute ourselves a committee and invite everyone in the United States who has doubts about the case or the sentence to join us.

CHAIRMAN:

All agreed?

ALL:

Agreed.

CHAIRMAN:

Motion carried. Next.

EMILY:

I move we use the contributions that have come in to publish 50,000 copies of a pamphlet containing the Reuben series.

ALL:

Agreed. Right.

CHAIRMAN:

Motion carried.

HELEN:

I move we rent the office on 8th Avenue.

BILL:

It's too small. About the place on 34th Street. I thought the landlord agreed.

MAN:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

HALLKEEPER:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

WOMAN:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

MAN:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

WOMAN:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

MAN:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

WOMAN:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

MAN:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

WOMAN:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

MAN:

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WOMAN:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

MAN:

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WOMAN:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

MAN:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

WOMAN:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

MAN:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

WOMAN:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

MAN:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

WOMAN:

I'm sorry, but I can't do that. I'm sorry, but I can't do that.

MAN:

Yeah, I think we could get it. And maybe we could get the Community Center on Marshall Street. I'll call them up.

WOMAN:

MAN:

What about you, Bill, will you speak before they let us drive you around?

BILL:

I'll speak twenty times. You get the people and I'll walk to each meeting if I have to.

WOMAN:

What do you mean walk? We have suburbs in Chicago.

MAN:

And the meetings were held. In a synagogue.

WOMAN:

An injustice has been done not only to two people but to all the people of the United States.

MAN:

In a Union Hall.

WOMAN:

If two people can be put to death on such flimsy evidence, what American is safe?

MAN:

In a Church.

WOMAN:

The sentence is a violation of American justice and democracy. It must be reversed.

MAN:

In Los Angeles, a Minister speaks.

MINISTER:

Christian justice and mercy require that their lives be spared. I will speak out and do everything I can to that end.

MAN:

New York City, January 9th, Meyer Sharff, a Rabbi

SHARFF:

(IN YIDDISH, TRANSLATED UNDER)

I have studied and pondered long over the facts in the Rosenberg Case which concern not only one human being, but four living souls, a father, a mother, and two small sons. The saving of one soul, as the saying goes, is the saving of the souls of future generations. I came to the firm conviction that something had to be done to save these persons from an undeserved fate...Once this is achieved, all truth-loving people will have secured a great triumph, and the children of the Rosenbergs and Sobell will be reunited with their parents. (HE LEAVES)

CROWD:

CHIEFS, MUSIC UP THEN UNDER, GOING INTO "DEAR ETHEL THERE".

HARR:

The people listen and take heart. Activity begins, leaflets are distributed, petitions signed, money is gathered, meetings by the hundreds. And the voices are heard far beyond the halls. Even in the cells of Sing Sing prison.

JULIUS:

My wonderful Ethel; Money, yesterday was overwhelming for me. It was wonderful to hear that many good people are rallying to our aid and that a committee on our behalf is mushrooming. My most precious wife, Ethel, time will pass quickly as constructive steps are taken, for our freedom, and the freedom of all the American people. I can't wait to see you and hear more about these new developments.

HARR:

The silence is broken. Meantime, the lawyers appeal the case to the Circuit Court of Appeals.

COURTROOM SCENE. BLOCH, SAUFEL AND HARR.

HARR: (CONT)

January 10, 1958

The case is argued.

BLOCH:

Your Honors, I move for a reversal of the conviction on the following grounds:

1. The Espionage Statute under which the defendants were convicted is unconstitutional. The statute is vague and indefinite; the intent provisions are vague and indefinite and the statute does not establish a sufficiently certain standard of guilt.
2. The indictment is clearly insufficient.
3. The conduct of the trial judge deprived Ethel and Julius Rosenberg of a fair trial.
4. The judge's instructions to the jury were clearly prejudicial.
5. The Court was in error in permitting testimony with regard to Sincerely to be entered in

remain on the record. It erred also in admitting testimony with regard to alleged Bentley-Julius telephone calls; the alleged theft by Rosenberg of a proximity fuse. It was in error in allowing the introduction of sketches purporting to describe the implosion lens and the atom bomb. And it was in error in accepting the testimony of the photographer Schneider.

8. and lastly - the sentence of death, as I have already pointed out, constitute cruel and unusual punishment and should be reversed.

JUDGE: (SWAN)

Thank you, Mr. Bloch.
Mr. Lane, you are representing the government in place of Mr. Saypol?

LANE:

That is correct, Your Honor. Mr. Saypol has been named a judge of the N. Y. Supreme Court.

JUDGE:

Do you have anything you wish to add?

LANE:

I think, your Honor, the brief submitted by the government adequately disposes of the arguments raised by the petitioners.

JUDGE:

Thank you. The Court will adjourn.

(PARTICIPANTS STEP ASIDE AS THOUGH COURT FINISHED.
JUDGES ON BENCH DELIBERATE.)

HARR:

A month goes by.
And on February 28, 1952, the Court of Appeals hands down its decision in the appeal of the Rosenbergs and Sobell. The opinion is read by Judge Frank:

FRANK:

...This court does not agree with the petitioners claim that the trial judge erred in admitting testimony with regard to alleged Communist affiliation. Of course, such evidence can be highly inflammatory in a jury trial. But the judge in his final charge, cautioned the jurors not to determine the guilt or innocence of a defendant on whether or not they believe him to be a Communist. It may be that such warnings are no more than an empty ritual without any practical effect on the jurors. If so, this danger is one of the risks run in a trial by jury.

(MORE)

-11-

...The defendants likewise claim that it was unconstitutional and an abuse of discretion for the trial judge to impose the extreme penalty in their particular case, and that we must reduce their sentences. But we must hold that an appellate court has no power to modify a sentence...Had this court such power it might take into consideration the fact that the evidence of the Rosenbergs' activities...came almost entirely from accomplices. But we do not feel we have such power...

HARR:

The appeal from conviction and sentence is denied. Two weeks later, Attorney Bloch appeals for a re-hearing.

BLOCH:

The rules say that a judge must avoid any appearance or attitude of bias. Judge Kaufman did not do this. On the contrary, he emphasized the points of the government's case. He protected government witnesses. He commented on the evidence. He examined the defendants with hostility. His entire manner and attitude displayed marked bias to the defendants. If the Court disregards these facts, it denies the defendants' right to a fair trial.

And a last point: although the defendants were not indicted for treason, the judge in his sentence accused them of treachery and gave them the death sentence for that reason. Conviction for treason requires the element of aid to an enemy, but the Rosenbergs were not so charged. Yet they were sentenced as though this had been proven, when it was not. Judge Kaufman was in error. This Court must find him so. The Court must reconsider.

The entire proceeding was in derogation of the Constitution and should be reversed.

HARR:

The Court adjourns, considers, deliberates, then four weeks later, April 8, 1952, returns with its decision.

FRANK:

The petition for re-hearing is denied.

HARR:

In New York City, the Rosenberg Committee meets to discuss the next steps in the campaign.

(COMMITTEE ON STAGE)

DAVE:

Let's not worry about the legal campaign. We're not handling that. The lawyers are.

EMILY:

But how do we know the Supreme Court will take the case?

DAVE:

We don't know.

EMILY:

I've got a suggestion. I propose that our committee print up a petition to the Supreme Court asking that they consider the case and that we get as many people in the country as we can to sign it.

ALL:

Good idea.

DAVE:

How many such signatures you think we can get?

EMILY:

(THOUGHTFULLY); Hmm...Twenty-five thousand, thirty thousand maybe.

JOE:

Let's go through with it.

DAVE:

I take it we're agreed. Anything else.

JOE:

I propose we print the court record and distribute it. Whew....It would cost too much...Why it would cost ten dollars a copy probably...Besides we don't want to print the entire record. We just want to print our side of the case.

ALL:(HUBBUB)

HELEN:

May I say something? (QUIETS DOWN) I think it's a good proposal. Sure, it's expensive, but I think if we appeal to people for the money, we can get it.

Also, let people see the government's side, too. Let them read the testimony for themselves. If we're convinced an injustice has been done after studying the case, I think we should feel confident that thousands of others who take the time to read the case will feel so too. And I think people will take the time. I think there's a lot of interest in the case, and a lot of concern. I'm for it.

ALL:(HUBBUB)

DAVE:

No, no...It won't work...It's not the right approach. Since we're not in agreement, let's hold that point up and take it up at another meeting. Allright?... Meantime, any other proposals.

JOE:

Yes, we've been getting mail from many parts of the country. We've got letters from about ten cities

where people want to set up local Rosenberg committees, but they ask that we send someone out to help them.

YURI:

I think you ought to go, Dave.

DAVE:

How much money do we have in the treasury.

EMILY:

About eighty-three dollars. And we owe about two thousand four hundred.

YURI: (SIGHING)

Well, it was a good idea anyhow.

EMILY:

I think so, too. And I think we should send him.

HELEN:

But how?

EMILY:

How have we paid for anything we've done? We've borrowed the money, or gotten credit, then appealed to people for contributions. Let's do the same thing here. It's worth it.

ALL:

Yeah...That's true...

JOE:

Mr. Chairman, I make that in the form of a motion.

DAVE:

All in favor?

ALL:

Aye.

DAVE:

Carried. Well, that's about all for today, I guess.

YURI:

For today? That's about enough for eight months.

(ALL LEAVE STAGE EXCEPT DAVE.)

HARR:

Summer, 1962.

While Emanuel Bloch prepares the appeal to the Supreme Court, an officer of the committee makes a trip throughout the country. Boston, Massachusetts: (SPOT AFTER SPOT; ONE INDIVIDUAL AFTER ANOTHER (WOMEN MOSTLY) COME ONTO STAGE TO TALK WITH DAVE WHO GOES FROM ONE POSITION TO ANOTHER.)

BOSTON WOMAN:

So far, we've got two ministers, a rabbi, a college professor and the three of us. That's the committee. Next week, one of the ministers is going to speak on the case in his sermon and we'll hold a meeting in the rectory afterwards. If there were only more of us.

HARR:

Baltimore, Maryland.

NEGRO WOMAN:

That fact sheet you printed - Can we get some more of them?

We can easily distribute another twenty thousand. They go like hot-cakes.

DAVE: I don't think we have any more left.
 WOMAN: What do they cost?
 DAVE: About five dollars a thousand.
 WOMAN: That's twenty dollars. We'll raise that easily.
 (TRAILING OUT) Now let me tell you what else we're
 doing...

HARR: IOWA CITY

MAN: Tell you the truth, we didn't wait for you to come.
 We set up the committee ourselves, and we've got a
 big meeting arranged for this week. Hope you don't
 mind.

DAVE: Mind? Mr. Dobson, you've just made some more work
 for yourself. Subuque, is that far from here?

MAN: Oh, about a hundred miles. Why?

DAVE: I've got a few names of people who want to start a
 committee going there. Could you go up to meet with
 them so I can go to California.

MAN: Be glad to. But it'll have to be after this week.
 This first meeting's got to be a success. (BOTH EXIT)

HARR: Denver, San Francisco, Los Angeles,
 committees springing up,
 and meantime the campaign goes on in small towns and
 big towns, east coast and west coast,
 for signatures to the petition to the Supreme Court.

LUNCH HOUR IN A STEEL PLANT IN CHICAGO
 (THREE MEN EATING. FOURTH WITH PETITION)

1st MAN: Go on, sign it.

2nd MAN: I ain't signing nothin' for spies.

1st MAN: Here, I'll sign. (HE PUTS HIS SIGNATURE DOWN.)

2nd MAN: You out of your mind? Don't sign for them. They're
 spies. They're getting the chair.

1st MAN: It asks the Supreme Court to review the case. Now,
 what's the matter you opposed to that? Anything
 wrong with the Court looking it over?

2nd MAN: (WAVING DISGUSTEDLY) Ahhh...

1st MAN:

(TO PETITION CARRIERS) Before they put somebody to death, they got to look it over, and then look it over again. And after they're finished with that, they got to look it over some more. When you're dead, you're dead. Besides, I don't like this killing people for politics. (HE SIGNS) You give me one of those petitions, I'll take it down to my lodge meeting tonight.
(A WHISTLE BLOWS. THEY LEAVE.)

TWO WOMEN WITH BABY CARRIAGES:

1st WOMAN:

For the Rosenbergs? Certainly, I'll sign. My husband and I were just saying, we think it's a terrible thing that they should die.

NOW PEOPLE START COMING FROM VARIOUS PARTS OF THE STAGE DELIVER PETITIONS TO EMILY AND LEAVE AS NARRATOR...

NARR:

The signatures keep coming in, two thousand, six thousand, ten thousand, in one month, twenty thousand are in. By September, the deadline:

EMILY:(EXULTANT)

Fifty thousand signatures! Fifty thousand signatures! (SHE KISSES JOE) Oh, Joe!

NARR:

People moving, people speaking out. Review the case of the Rosenbergs! Stop the executioner now! Justice! Justice for the Rosenbergs! In Washington, D. C., the Pentagon Patriots, an organization of anti-semites, send a poem through the mail:

VOICE:

These Rosenbergs must burn and die. If they cheat death, The Stars and Stripes May cease to fly.

VOICES:(CHEERING)

Yay, that's the way...Kill them fast...Burn 'em... And in Sing-Sing, a mother writes to her son:

NARR:

MAUR:

My dearest, darling boy Michael:

Ma, your parents still can't come home as our appeal to the higher court has not yet been heard. Be patient, honey, as everything will turn out all right and we'll come home too when all this is over. I see your daddy regularly and we talk about you too. We look at your pictures and hug and kiss you with all our hearts. You are very dear and precious to us and I send you all my love. We'd like to hear from you as to all the things you do, see and hear...

Your mother.

MAUR:

Meanwhile, the appeals are filed, first for the defendants, then the government's appeal. 80,000 signatures submitted to the court, and the country waits: What will the Supreme Court do?

HARR:

Date: June 9, 1952

Another step in the legal battle:

Arguments before the Supreme Court

(SCENE: BLOCH, LANE AND SUPREME COURT JUSTICES
ON STAGE.)

BLOCH:

(FADE HIM IN AS THOUGH HE HAS BEEN SPEAKING)

And so I say, Your Honors, whether two human beings are to live or die may very well depend on what this court does. Therefore, I plead with you -- review this case. Decide for yourselves whether Ethel and Julius Rosenberg and Morton Sobell were given a fair trial. Decide for yourselves whether or not the trial and the sentence passed upon them did not violate the law. I ask that you agree to consider, so that a full measure of justice can be afforded, and that our nation's democratic practices be firmly upheld.

JUDGE:

Mr. Lane, for the Government?

LANE:

Your Honors, we submit there are no questions of law remaining which require the attention of this court. A jury found these petitioners guilty. The judge passed sentence upon them. The Appeals Court upheld the verdict and found no errors. What more do these petitioners want? They have had their day in court. We ask that the defendants' petition be denied.

BLOCH:

Your Honors, will the Court accept this petition signed by General Newcomer, Mrs. Mary Church Terrell, Nelson Algren, Dr. W. E. B. DuBois and others? These are disinterested citizens who are convinced that the guilty verdict and the death-sentences are in error. They ask this Court to review the entire case in the interest of American justice.

JUDGE:

We will note the petition.

BLOCH:

I also take leave to submit to the Court this petition signed by 50,000 Americans urging a review.

JUDGE:

Thank you. The Court will announce its decision in due time.

(GAVELS) Court adjourned.

(PARTICIPANTS REMAIN)

HARR: (QUIETLY) Now Autumn -- and shadows lengthen on the
hall of justice.

HARR: Date: October 18, 1952 --
The Supreme Court announces its decision:

JUDGE:(GAVELING): The defendants' petition for a review is denied.
Mr. Justice Black dissents.

HARR: No comments, no opinions,
no arguments answered:
denied.

HARR: (CONT'D) But on: October 28, 1952 --
Emanuel Bloch returns to the Supreme Court:

BLOCH: I appeal to the Court to grant a re-hearing. There
are vital legal issues involved in this case which
only this court can determine.

LANE: The Government opposes the motion of Mr. Bloch. This
Court has already given its answer. There are no
further issues remaining.

HARR: (QUIETLY) And on: November 17, 1952 --
decision:

JUDGE:(GAVELS): The petition for a re-hearing is denied. Mr. Justice
Black dissents. An opinion will be read by Mr.
Justice Frankfurter.

FRANKFURTER: This Court has tried very often to make clear just
what we mean when we refuse to grant a hearing. It
does not mean that we are passing on the merits of
the case. It only means that the majority of the
court does not find the arguments offered for a
hearing sufficiently important to consider the case.
That is all that it means.

JUDGE:(GAVELS) Court is adjourned.
(JUDGES AND LANE LEAVE, BLOCH REMAINS. KAUFMAN
ENTERS STAGE.)

HARR:(SOMBERLY) And now the case seems closed.
There remains only the setting of a new date of
execution.
November 27, 1952,

KAUFMAN:

The Court orders that the execution of sentence upon Ethel and Julius Rosenberg shall take place in the penitentiary at Sing-Sing prison, Ossining, New York, some time during the week of January 18, 1953...

(GAVELS FINELY) Court is adjourned.

(HE LEAVES. BLOOM TRAILS OFF.)

HARR:

Six weeks of life remaining.

In New York, the Committee meets.

(COMMITTEE SCENE: THEY'VE BEEN IN SESSION A WHILE. FADE IN ON DAVE'S OPENING WORDS.)

DAVE:

And another thing is clear (FULL). We can't spend time mourning the Court's decision. The Courts move when the people tell them to move. We had fifty thousand signatures to our petition. But there are 180 million people in the United States. What we have to do now is to get more people to speak up. We have to...

YURI:(INTERRUPTING): But as far as the Courts are concerned, the case is closed.

DAVE:

That means we open a fight for clemency. Either Judge Kaufman or President Truman can spare their lives.

YURI:(SCEPTICALLY): Welll...

EMILY:

No, I think our chairman is right. This case isn't over. In fact, the way I see it, it's just beginning. Look, just last week, 20 Rabbis in Jerusalem cabled President Truman to stop the execution. More people are going to speak out if we get the facts to them. We have to distribute more leaflets, more copies of the record, and we have to fight for the right to advertise in the press...

HARR:

Date: November 30, 1952. In a newspaper editor's office in Los Angeles:

(SCENE: TWO WOMEN COMMITTEE MEMBERS & NEWSPAPER ED.)

1st WOMAN:

We're from the Los Angeles Rosenberg Committee. We'd like to place this advertisement in the Examiner.

EDITOR:(EXAMINING): Rosenberg Committee? (HE RETURNS IT AFTER A BRIEF INSPECTION. PLEASANTLY.) I'm sorry, it's

2nd WOMAN:

EDITOR:

1st WOMAN:

EDITOR:

HARR:

EDITOR:

HARR:

EDITOR:

HARR:

DELEGATE:

CONSUL:

HARR:

WOMAN:(IN FRENCH):

HARR:

HAYS:

against our paper's policy. Controversial, you know.

But you accept other controversial ads.

Sorry.

Will you accept an ad containing the appeal from the Rabbis of Jerusalem to President Truman asking him to spare the Rosenbergs' lives?

Sorry. Controversial.

(WOMEN MOVE TO 3 OTHER EDITORS. DUMB SHOW OF OFFERING AND DECLINING.)

Detroit/ Philadelphia/ New York/

"Sorry." "Controversial". "Against our policy."

But, finally, the Chicago Daily News

We'll take your ad. In fact, we are running an editorial urging the President to grant clemency, although we believe the Rosenbergs are guilty.

(WOMEN AND EDITORS LEAVE STAGE. ENGLISH DELEGATION ENTERS.)

Now, as January 12, the date of death draws near,
A wind begins to rise,
A wind of mercy,

blowing "justice" from the streets of cities

blowing "clemency" from the corners of the world.

In Toronto, a delegation of Canadian citizens

visits the American consul:

Mr. Consul, we ask you to forward to President Truman our plea to halt the execution of the Rosenbergs. We cannot believe that your country with its great democratic heritage will allow such a barbarous act to take place in view of the serious doubts of guilt.

I shall forward your plea to Washington.

In Paris, France.

(SPOT ANOTHER DELEGATION TO ANOTHER CONSUL.)

We represent 100,000 women of Paris organized in the Women's League for Peace and Freedom. We ask the President to spare the Rosenbergs' lives.

here at home, the wind rising,

gathering on its wings the conscience of the land

Arthur Garfield Hays:

"...We may try but we cannot forget the two young Rosenberg children...It is the damnable death penalty that causes the uneasiness."

HARR: Rabbi Abba Hillel Silver;

SILVER: "I have accepted the verdict of the Courts in their conviction of the Rosenbergs... However, I believe that the death sentence is unprecedented... I believe that our country is strong and great-hearted enough to be merciful."

HARR: While in Turin, Naples, Milan, Italy, delegations of the Italian people.

(SPOT ITALIAN DELEGATION & CONSUL.)

DELEGATE:(ITALIAN): The Italian people do not think the Rosenbergs are guilty. We remember your Sacco-Vanzetti case. Three million Italian workers demand; clemency for the Rosenbergs!

HARR: And from 2300 Protestant Ministers in the U. S., a letter to the President;

STITT: "Our plea does not hang on the decision of the Rosenbergs' guilt or innocence. We ask you in the spirit of love which casts out fear to mitigate a punishment of such terrible finality..."

HARR: Scientists, housewives, students, teachers... the wind rising...rising...

London, England;
a delegation to the U.S. Consul;

DELEGATE: Mr. Consul, has clemency been granted yet to the Rosenbergs?

CONSUL:(IMPATIENTLY): Gentlemen, I have already told you. I will transmit your appeal to Washington. There is no point in your returning to this Consulate half a dozen times a day with the same question.

WOMAN DELEGATE: Mr. Consul, we shall return here every hour on the hour until we hear that the Rosenbergs' lives are spared.

HARR: Brussels, Singapore, Tokyo, Rio de Janeiro, rising...rising...the conscience of the world... And on a gray and dreary Sunday in December, A Sunday of clouds and rain, Hundreds of New Yorkers go on a Pilgrimage to Ossining bringing the Rosenbergs their hope, their will for life...

(CROWD COMES OUT OF TUNNEL AND ENTERS STAGE. FROM OTHER PARTS OF STAGE GUARDS APPROACH.)

GUARD CAPTAIN: (TO NEGRO LEADER) You're the delegation that wants to visit the Rosenbergs?

NEGRO LEADER: That's right.

CAPTAIN: It's against regulations. Only immediate members of the family are allowed to see them.

WOMAN: May we leave a message with them?

CAPTAIN: Against regulations.

MAN: How about these flowers? We've brought them flowers.

CAPTAIN: Not allowed. If you want, you can leave the flowers at the prison gate.

NEGRO LEADER: (AFTER CONSULTATION) Very well.

CAPTAIN: Not all of you. I'll allow a delegation of five.

(FIVE OF DELEGATION DETACH AND WALK ACROSS STAGE TO CENTER, CARRYING FLOWERS. REST MARCH BRIEFLY.)

HARR: While some march, five bring flowers to the gate; not flowers for the dead, but for the living.

- anemones, roses,

bearing the scent of earth and air,
and glistening drops of rain.

(THE FLOWERS ARE HANDED TO THE NEGRO LEADER WHO PLACES THEM ON THE GROUND, KNEELING TO DO SO. THE GUARDS STAND BY OBSERVING. AS THE LAST FLOWERS ARE DOWN, THE NEGRO LEADER THROWS BACK HIS HEAD, STILL KNEELING.)

NEGRO LEADER: (CRYING ALOUD) Ethel and Julius! Hear me!
We will not let you die!

(THE GUARDS RUSH OVER. THE NEGRO LEADER RISES. HIS DIGNITY IS SO UNASSAILABLE THAT THE GUARDS STOP NEAR HIM.)

We will not let you die!!!

(DELEGATION LEAVES STAGE. GUARDS FOLLOW. AND THEN THE LINE OF MARCHERS LEAVE, THEIR CHANT DWINDLING AS THEY GO.)

HARR: And the wind rises...rises...

more powerful than rain.

(MUSIC TO HOUND IT OUT)

Date: December 2, 1962 -

The Courts have closed their ears.

But, Bloch returns to the District Court, before Judge Ryan; in a final legal move -

(ON STAGE: RYAN, KILSHEIMER AND BLOCH)

RYAN:

Mr. Bloch, you are appealing for a reversal of the verdict and a new trial under Section 2355?

BLOCH:

That is correct, Your Honor.

RYAN:

On what grounds?

BLOCH:

On the grounds, Your Honor, that I have discovered new evidence which proves that the Rosenbergs and Sobell were convicted by fraud, perjury and a hostile atmosphere deliberately induced in the press by the government.

RYAN:

You may state your case, Mr. Bloch.

BLOCH:

Your Honor, I charge first that outright perjury was committed by one Ben Schneider, a witness for the government, who lied when he said he had not seen the Rosenbergs the day before he took the stand. This is confirmed by the affidavit of FBI Agent John Harrington, who admitted that he brought Schneider into Court the day before he testified for the purpose of identifying the Rosenbergs.

KILSHEIMER:

Your Honor, this is really a trivial point. The testimony of Mr. Schneider was not important to the trial.

BLOCH:

If that was the case, why did the Government have him commit perjury to offer it?

RYAN:

No interruptions, please. You may continue, Mr. Bloch.

BLOCH:

I charge further, Your Honor (BLOCH BEGINS TO PAUSE UNDER HERE. THE REMAINDER IS HEARD FAINTLY UNDER THE NARRATOR) that the government helped induce a hostile climate of opinion which made it impossible to obtain a jury free of prejudice, and that they did this by releasing statements to the press for eight months before the trial began, in violation of all legal rules and court procedures.

KILSHEIMER:

Your Honor, the Government is not responsible for stories printed in the press.

BLOCH:

I also charge that the testimony offered by David Greenglass was fraudulent and untrue. (IF MORE NEEDED HERE WE CAN AID)

HARR: (VER ABOVE): And the charges presented,

documents, affidavits, facts

The government induced a hostile atmosphere in the press.

Greenglass could not have drawn the sketch he made in court without assistance.

There is no secret to the atom bomb that could have been transmitted to another country;

Greenglass lied.

And Saypol prejudiced the case with the timing of the Perl indictment

But, the government answers; unimportant;

Besides, it's too late now;

The motions should have been made in the original trial

You can't ask for a new trial now

HARR:

Date: December 10, 1952 -

Judge Ryan gives his decision;

RYAN:

I find that the petitioners are entitled to no

relief. Motion to vacate the sentence and judgment denied.

BLOCH:

Your Honor, I request a stay of execution to give me time to carry an appeal.

RYAN:

I see no reason to grant that. Stay of execution is denied. Court is adjourned. (GAVELS)

HARR:

Now five weeks of life until January 12,

then four weeks, then three,

time running out, the days flying...

But the battle is not over,

neither among the people

nor in the courts.

Date: December 22nd -

A last legal recourse remains;

Bloch goes to the Court of Appeals

to reverse the decision of Judge Ryan.

(BLOCH AND THREE JUDGES ON STAGE.)

JUDGE SWAN:

(GAVELLING) Thank you, Mr. Bloch. We shall study your brief and make our decision known as soon as possible.

HARR:

(AS JUDGES DELIBERATE)

And the days dwindle, disappear...

Twenty, eighteen, sixteen, fourteen

Date: December 31, 1952 -

12 days of life remaining

The Appeals Court announces its decision:

SWAN, (READING IN)....We find the petition of the Rosenbergs from the decision of Judge Ryan to be without merit. As to the statement issued to the press by former Prosecutor Irving Saypol with regard to the indictment of William Perl, we cannot too severely condemn Mr. Saypol's tactics. Such a statement to the press in course of a trial we regard as totally reprehensible. If the defendants had moved for a new trial, it should have been granted. However, they did not so move and we cannot therefore grant the request for a new trial now. The petition is denied. (GAVELS) (APPEALS COURT LEAVES. BLOCH REMAINS, AS KAUFMAN ENTERS)

HARR:

And now with twelve days of life remaining the admission is finally made by the Court; A new trial should have been granted, but, on a narrow technicality, it is denied And now only one thing remains; the fight for clemency.

Date: January ____, 1953 -

BLOCH:

Attorney Bloch makes a final appeal to Judge Kaufman; Your Honor, Judge Kaufman, I plead with you. You have the power to reduce their sentences. Grant them clemency. Even if you think they are guilty, haven't they been punished enough -- more than enough.

KAUFMAN:

(EMOTIONLESS THROUGHOUT); I consider their crimes worse than murder.

BLOCH:

But I have statements, affidavits from the leading scientists of the world. There is no secret to the atom-bomb. How could the Rosenbergs have passed on a secret that doesn't exist?

KAUFMAN:

They were found guilty. Moreover they do not repent their crime.

BLOCH: But they maintain they are innocent. Here, Your Honor, a letter from Dr. Harold C. Urey, the atomic scientist. He says: "I find the testimony of the Rosenbergs more believable than that of the Greenglasses."

...Read it, Your Honor!

KAUFMAN: (SCANNING IT): It is presumptuous... The Court will now...

BLOCH: (INTERRUPTING, PLEADING): Your Honor, listen to me. You're a father. You have a child yourself. Have a heart, Your Honor, for God's sake. As man to man, I plead with you... Spare their lives... I'll get down on knees...

KAUFMAN: Their crime was worse than murder.

BLOCH: Oh, my God...

KAUFMAN: I deny the request for clemency... However, I will stay the execution to allow an appeal to the President. If he should deny it, sentence will be set again within five days. (GAVELS) The Court is adjourned.

(BLOCH AND KAUFMAN LEAVE)

HARR: Between agony and death; a stay;
not justice, but a stay.

The Courts have said no to justice
and the judge has said no to life.

...The cold eye of January regards the earth
where men are betrayed,
but there is no weeping now;
only the fight for time, time,
a tiny board of days

In one man's hands the hope for life now rests,
The President's, in his alone...

Date: January 6, 1953 -

On the icy street before the White House in Washington
3,000 Americans gather,
responding to the committee's call,
and a vigil starts,
a vigil for clemency...

(MUSIC HITS THE CLEMENCY MOTIF. THE VIOL CROWD GATHERS ON STAGE AND BEGINS TO MARCH. THE CHANT GOES UP) :

CHANT:

Clemency... Clemency...

President Truman: Spare their lives!

Clemency... Clemency...

President Truman: Spare their lives!

(THE MARCH AND CHANT CONTINUE, THE CHANT COMING UP AND DOWN AS PUNCTUATION THROUGHOUT)

MARR:

In the rain, in the snow, they march,
24 hours round the clock
reminding the mornings that life is at stake
and the nights that justice must not die.

And the hours race by:

fifteen days for the President to act,
fifteen days until the 30th of the month
when the President leaves office...

then fourteen days... thirteen...

Date: January 7, 1953 -

To the President from the Rosenbergs,
a petition to spare their lives

ETHEL:

MR. PRESIDENT:

I, Ethel Rosenberg, respectfully pray Your
Excellency to grant pardon or commutation of sentence.

My husband and I appeal to your mind and
conscience to take counsel with the reason of others
and with the deepest human feelings that treasure
life and shun its taking. To let us live will serve
all and the common good. If we are innocent, as we
proclaim, we shall have the opportunity to vindicate
ourselves. If we have erred, as others say, then it
is in the interest of the United States not to
depart from its heritage of open-heartedness and its
ideal of equality before the law by stooping to a
vengeful and savage deed.

We are not martyrs, nor do we wish to be. We do
not want to die. We are young, too young for death.
We long to see our two young sons, Michael and Robert,
grown to full manhood. Yes, we wish to live, but in
the simple dignity that clothes only those who have
been honest with themselves and with their fellow-men.

CHANT:

(UP, THEN UNDER)

HARR:

Thirteen days, and the hours flying,
then twelve...

From the White House: silence,
but from the people, not silence
but the plea:

CHANT UP THEN UNDER AGAIN

Eleven days... ten...

And the sea of man's soul flows over
and pours upon the Capitol...

Messages... statements... petitions...

From Albert Einstein...

From Dean Bernard Loomer...

From Jean Paul Sartre...

From Pablo Picasso...

Messages... messages...

"President Truman: Spare their lives!"

HARR; (CONT'D): Nine days... eight...

And the President is still silent

And the street before the White House

becomes silent too for a moment

and radiant and proud.

(MARCHERS HALT AND FORM OPEN OVAL. INTO CENTER
MINISTERS ENTER. ALL HEADS BOW);

MINISTER:

"Dear Lord, we gather here to pray you guide the
President into the ways of mercy. Let him be led by
your love for man, by your justice and by your
charity to spare the lives of our sister and brother
Ethel and Julius Rosenberg. (PADES UNDER FOR THE

BEST AS NARRATOR COMES OVER) It is not the manner
of the God-fearing to take life in hatred and
vengeance, but rather to spare it and see its
nurturing. We shall pray and work until clemency is

granted. Let the lives of the Rosenbergs be spared.
(CROWD MURMURS AMEN AND RESUMES THE MARCH AND THE
SOFT CHANT BENEATH)

HARR:

(OVER MINISTER AS ABOVE)

They pray; and in churches and synagogues across
the land,
the prayer goes up, the prayer for life,
and the world becomes a vast choir of voices
murmuring: "Amen" ...

(AS THE MARCH AND CHANT RESUMES)

And they march again,
the street a drum beneath their feet.

(CHANT UP AND UNDER)

Seven days... six days...

ticking by... the hours flying...

From 12 Members of Parliament of England: clemency

From the League for the Rights of Man in France:

clemency

From Andre Morvat, Chief Legislative Officer of France:

clemency

Five days... five days...

The sea of messages pouring:

Seattle, San Francisco, Chicago, Detroit,

Paris, Rome, Copenhagen, Berlin

pouring in... endless... endless...

housewives... students... lawyers... workers...

(PERHAPS HERE THE MESSENGERS BUSINESS)

HARR:(CONT'D): And still silence from the White House.

No action.

Four days... three...

Date: January 17 -

Out of respect for the coming inauguration

the vigil ends in Washington

(VIGILLERS BREAK UP STAKE SIGNS.)

But hope still remains that the President will act.

January 20th, President Truman leaves the White House,

and clemency is neither granted nor denied.

(NOW SILENCE.)

Now President Eisenhower is inaugurated,

and the world waits

ANNOUNCER:

(OVER MIKE)

Bulletin, Washington, D. C. (THE CROWD PRESSES.)
February 12. The White House has just announced
that President Eisenhower has refused to grant
clemency to Ethel and Julius Rosenberg.

(MUSIC; STABS IN. CROWD REACTS.)

HARR:

And in New York, that night,
a committee meets.

TUM:

What do we do?

EMILY:

We ask him to reconsider his decision.

TUM:

He won't change his mind.

EMILY:

He will if enough people ask him to.

DAVE:

We get out a statement.

JOE:

We start a telegram campaign.

HELEN:

We send a delegation.

EMILY:

We resume the vigil!

(MUSIC; BUILDS UP VIGOROUSLY)

(ON STAGE THE VIGIL RESUMES WITH SIGNS. THIS TIME
IT IS LED OFF BY A FLAG.)

HARR:

And the vigil resumes,
5,600 people now,
and not only in Washington,
but throughout the world.

(AS THE COUNTRY IS NAMED ANOTHER VIGIL GROUP ENTERS
WITH A NATIONAL FLAG AND STARTS ITS OWN SMALL
VIGIL AS THE MAIN LINE GOES CHANTING: "Reconsider,
Mr. President... Reconsider... Reconsider...
Reconsider..." etc...)

Vigils in Tokyo,

Vigils in Ottawa,

in London,

in Paris,

Berlin, Sydney, Rome, Oslo, Shanghai...

The peoples of the world

reject death

demand the saving of life...

(THE CHANT GOES UP FULL NOW "Reconsider"... AND IS
ECHOED IN LACE OF THE LANGUAGES ON STAGE UNTIL BOTH
STAGE AND SOUND ARE FULL OF MARCHING AND THE
REPETITION OF THE WORD.)

(OVER THIS COMES THE ANNOUNCEMENT VIA LOUDSPEAKER.)

ANNOUNCER:

Bulletin - Vatican City, Rome:

(THE VIGILS FINISH. THE CHANT IS CUT OFF ABRUPTLY)

L'Osservatore Romano, the official Vatican paper, announced today, February 15, that Pope Pius XII has intervened in behalf of Julius and Ethel Rosenberg who have been sentenced to death in the United States.

The Vatican newspaper indicated the Pontiff has asked that, if possible, their lives be spared.

(VIGILLERS BURST INTO CHEERS AND SONG. THE MARCHING IS RESUMED, THE FLAGS DANCING. THE CHANT IS FULL NOW: "Reconsider, Mr. President. Clemency for the Rosenbergs. The electric chair cannot kill doubts.")

HARR:

(OVER HUBBUB)

And now all faiths have spoken.

What will the President do?

ANNOUNCER:

(OVER LOUDSPEAKER) Washington, D. C.

(THE CROWD FREEZES AGAIN) The White House has just announced that President Eisenhower was never shown the Pope's message for clemency for Ethel and Julius Rosenberg.

(VIGILLERS, WHO HAVE HALTED THE MARCH AND THE CHANT, NOW KNOT IN GROUPS ON STAGE. THEIR VOICES COME IN A BABEL, BUT DISTINCT.)

VOICE 1:

If he never saw it, what happened to it.

VOICE 2:(FRENCH) Incroyable!

VOICE 3:

I never heard of such a thing.

VOICE 4:(ITALIAN) It is impossible, preposterous!

VOICE 5:(GERMAN) He must have gotten it.

VOICE 6:

Something's rotten -- and it ain't in Denmark!

(GET LAST LINE OUT DISTINCT FROM THE BABEL)

HARR:

In Florida, newspaper reporters interview former Attorney General McGranery

REP. 1:

Did you receive the Pope's message, Mr. McGranery?

McGRANERY:

Yes, I did.

REP. 2:

Didn't you transmit it to the White House?

McGRANERY:

No.

REP. 1:

Why not?

McGRANERY:

I didn't think it was important.

(CHANT COMES UP.)

ANNOUNCER:(OVER MIMES, Bulletin, Room [THE KNOTS FREEZE TOWARD THE LOUDSPEAKER,])

His Holiness, Pope Pius XII, has sent another message to the White House asking President Eisenhower to grant clemency to Ethel and Julius Rosenberg.

CROWD:

(CHEERS GO UP. "Hurray". "That'll do it." Now he must listen." "He'll have to reconsider." THE VIGILS REFORM AND NOW ALL THE SMALL ONES MERGE INTO THE LARGE ONE, THE FLAGS WAVING AND BANNERS BEING. THE CHANTING IS RESUMED IN MANY LANGUAGES; "Reconsider, Mr. President. Grant clemency now. Reconsider, reconsider, etc...")

HARR:(OVER CHANT):Clemency, says the world.

Reconsider!

But there is no answer from the President. And in New York, on February 16 -

Judge Kaufman holds court;

(ON ANOTHER LEVEL, WHILE VIGIL GOES ON, KAUFMAN, BLOCH AND KILSHEIMER COME ON STAGE)

KAUFMAN:(GAVELS) The Court is in session to set the date of execution of Ethel and Julius Rosenberg.

BLOCH:(AGHAST): Your Honor, you can't set sentence now!

KAUFMAN: I told you last month, Mr. Bloch, that I would set the date of execution within five days after the President acted.

BLOCH: But, Your Honor, the Pope has appealed for clemency. People all over the world are asking the President to reconsider.

KAUFMAN: I am concerned only with the law.

BLOCH: Your Honor, I appeal to you for a stay of execution. Give me time to ask the Supreme Court to over-rule the Appeals Court's last decision.

KAUFMAN: I am afraid that nothing would come from it except to cause more mental anguish for your clients.

KILSHEIMER: The Government agrees with the Court. We think the time has come for the sentence to be carried out.

BLOCH: But, your Honor...

KAUFMAN:(GAVELS) No further argument. (PAUSES) I order that the execution be carried out sometime during the week of March 9 (GAVELS) Court is adjourned.

ANNOUNCER:(OVER MIRE); Bulletin, Rome (THE CROWDS PRESS TOWARD THE LOUDSPEAKER.)

His Holiness, Pope Pius XII, has sent another message to the White House asking President Eisenhower to grant clemency to Ethel and Julius Rosenberg.

CROWD:

(CHEERS GO UP. "Hurray". "That'll do it." Now he must listen." "He'll have to reconsider." THE VIGILS REFORM AND NOW ALL THE SMALL ONES MERGE INTO THE LARGE ONE, THE FLAGS WAVING AND BANNERS HIGH. THE CHANTING IS RESUMED IN MANY LANGUAGES:

"Reconsider, Mr. President. Grant clemency now. Reconsider, reconsider, etc..."

HARR:(OVER CHANT);Clemency, says the world.

Reconsider!

But there is no answer from the President.

And in New York, on February 14 -

Judge Kaufman holds court:

(ON ANOTHER LEVEL, WHILE VIGIL GOES ON, KAUFMAN, BLOCH AND MILSHEIMER COME ON STAGE)

KAUFMAN:(GAVELS) The Court is in session to set the date of execution of Ethel and Julius Rosenberg.

BLOCH:(AGHAST); Your Honor, you can't set sentence now!

KAUFMAN: I told you last month, Mr. Bloch, that I would set the date of execution within five days after the President acted.

BLOCH: But, Your Honor, the Pope has appealed for clemency. People all over the world are asking the President to reconsider.

KAUFMAN: I am concerned only with the law.

BLOCH: Your Honor, I appeal to you for a stay of execution. Give me time to ask the Supreme Court to over-rule the Appeals Court's last decision,

KAUFMAN: I am afraid that nothing would come from it except to cause more mental anguish for your clients.

MILSHEIMER: The Government agrees with the Court. We think the time has come for the sentence to be carried out.

BLOCH: But, your Honor...

KAUFMAN:(GAVELS) No further argument. (PAUSES) I order that the execution be carried out sometime during the week of March 9 (GAVELS) Court is adjourned.

VIGILLERS:

BO!

The Rosenbergs must not die.

Clemency, Mr. President.

Reconsider... Reconsider... Reconsider...

HARR:

And in New York, the committee meets again.

(COMMITTEE ON STAGE.)

HELEN:

We keep the vigil going.

DAVE:

We get more people there.

EMILY:

We get more telegrams sent.

JOE:

The Rosenbergs haven't given up.

HELEN:

No one's given up!

DAVE:

We're going to win!

HARR:

Date: February 17 -

Attorney Bloch tries a last legal move,

returning to the Court of Appeals,

the same court that refused before to grant a new trial.

(BLOCH, KILSHEIMER AND THREE JUDGES ON STAGE.)

BLOCH:

All I ask is that you grant us a stay of execution.

I want to appeal this court's decision to the Supreme Court, but I can't unless a stay is granted.

Your Honor, this is simply a waste of time. (PAIDING)
The Courts have already...

HARR:

Arguments. More arguments. Questions by the Court.

While outside the world insists they live.

And then, Justice Frank delivers the decision of the Court:

FRANK:

We do not agree with the Government's arguments.

I think there are substantial questions of law involved. I would not want to preclude their right to appeal to the Supreme Court. I would not want that on my conscience... Mr. Bloch, we grant you an indefinite stay of execution, to permit you to appeal to the high court. (GAVELS)
Court adjourned.

84-
(VIGILLERS CHIEF AND SING. THE VARIOUS VIGILS
MERGE INTO ONE HUGE DEMONSTRATION WITH FLAGS
THAT OCCUPY THE ENTIRE STAGE AND GRASS. IT
IS THE HEIGHT OF THE PROGRAM. THEN IT GOES
UNDER FOR HARR.)

HARR:(OVER)

March 30. The appeal is filed.

And here it stands.

And now, today, Sunday, April 26, 1953 -

as we 20,000 meet in Randall's Island,

the court is once more considering the case.

And while that court considers,

still another court is in session,

-- the court of the peoples of the world --

considering the case of America,

asking:

"Shall justice be allowed to die

in the land where it was born?"

We meet today to give our answer to the world.

We meet to tell the peoples of the world

that justice shall never die!

... To tell Ethel and Julius Rosenberg:

You shall hold your sons again;

You shall live!

The world is waiting for our answer;

Will you pledge yourself to justice and to life?

(CHORUS ON STAGE AND AUDIENCE ANSWERS: "YES")

Will you all stand and take this pledge with me?

(CHORUS QUIET. ALL STAND.)

Repeat after me.

HARR:

HARR & AUDIENCE: I pledge

to do all in my power

to save American justice

by saving the lives

of Ethel and Julius Rosenberg.

(CHORUS UP IN SONG. ORGAN FULL)

HARR:(TOPPING)

Yes, we are the people,

sprung from the loins of all America

who hold life too dear to allow its taking.

We are the highest court on earth,
Americans who love their country
and will not let it suffer shame.

For the sake of bread and roses
and the laughter of little children,
we, who are the people
shall save the lives of the Rosenbergs
and thereby save... justice in America!

(CHOIRS AND ORGAN UP FULL IN SONG TO
CONCLUSION AND OUT.)

2 1 1 1 1

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

APR 4 1953

TELETYPE

FBI, BALTIMORE

4-4-53

12-43 P.M., E.S.T.

DIRECTOR, FBI, AND SAC-S, NEW YORK AND PHILADELPHIA

- U R G E N T -

JULIUS ROSENBERG, ET AL., ESP - R. RENYLET TO BU MARCH TWENTYTHREE
LAST, AND BUTEL MARCH TWENTYEIGHT LAST. PHOTOGRAPHS OF CONSOLE
TABLE EXHIBITED TO HERMAN B. HOOPS, PRESIDENT AND GENERAL MANAGER,
BRANDT CABINET WORKS, INC., HAGERSTOWN, MARYLAND. HOOPS ADVISED
THIS TABLE MANUFACTURED BY HIS COMPANY BETWEEN APRIL FIFTEEN,
NINETEEN FORTY, AND APRIL TWENTYTWO, NINETEEN FORTYNINE, WHEN THE
MODEL WAS DISCONTINUED. TABLE WAS NEW DESIGN IN NINETEEN FORTY,
THEREFORE NO TABLE OF THIS DESIGN OR MODEL MADE PRIOR TO NINETEEN
FORTY, NOR SUBSEQUENT TO NINETEEN FORTYNINE WHEN FINAL ORDER WAS
FILLED. LETTER FOLLOWS FURNISHING DETAILS AND RETURNING PHOTO-
GRAPHS TO NEW YORK.

Mr. Tolson	_____
Mr. Ladd	_____
Mr. Nichols	_____
Mr. Belmont	_____
Mr. Clegg	_____
Mr. Glavin	_____
Mr. Rosen	_____
Mr. Tracy	_____
Mr. Gearty	_____
Mr. Mohr	_____
Mr. Winterrowd	_____
Tele. Room	_____
Mr. Holloman	_____
Mr. Sizoo	_____
Miss Gandy	_____

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DATE 7/24/86 BY 3042 pwt/pls

A IN O

WA12-46 PM OK FBI WA RD

NY12-47 PM OK FBI NYC MS

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486 NOV 10 1960

DISC 62 APR 29 1953

162-58236-1603
APR 15 1953
ESP SPK

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

AIR TEL

FD-36
Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Gearty
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Holloman
Mr. Sizoo
Miss Gandy

FBI BA 4/10/53

RL:fcw

Transmit the following Teletype message to:

DIRECTOR FBI

JULIUS ROSENBERG, ET AL, ESPIONAGE-R. [REDACTED] TELEPHONICALLY

FURNISHED THE FOLLOWING INFORMATION THIS DATE: AT A MEETING OF THE CIVIL RIGHTS CONGRESS EXECUTIVE COMMITTEE 4/8/53 INFORMANT AND [REDACTED] A CP MEMBER AT BA ACCORDING TO [REDACTED] CONCERNING FUTURE PROJECTS OF THE ORGANIZATION. QUESTION WAS DISCUSSED OF ISSUING A LEAFLET CONCERNING THE ROSENBERG CASE IN NEAR FUTURE. DURING THE CONVERSATION [REDACTED] STATED THAT QUOTE THE ROSENBERGS HAVE HIRED THREE FORMER FBI AGENTS AND THEY HAVE DUG UP SOMETHING NEW IN THE CASE UNQUOTE. INFORMANT ADVISED THIS STATEMENT WAS MADE IN PASSING AND WAS NOT FURTHER REFERRED TO BY [REDACTED] BASED ON [REDACTED] MANNER, INFORMANT WAS OF OPINION THAT THE STATEMENT WAS MADE TO IMPRESS INFORMANT WITH [REDACTED] IMPORTANCE AND KNOWLEDGE OF CONFIDENTIAL INFORMATION. ACCORDING TO THE INFORMANT [REDACTED] HAS IN THE PAST MADE UNFOUNDED STATEMENTS APPARENTLY INTENDED TO IMPRESS HIS LISTENERS.

INFORMANT COULD FURNISH NO FURTHER INFORMATION TO SUBSTANTIATE [REDACTED] STATEMENT.

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DATE 10/21/82 BY 3042 PWT/lmw

cc N.Y.

BA 65-1763

COMMITTEE TO SECURE JUSTICE IN THE ROSENBERG CASE (100-15241)

CRG (100-12312)

AIR TEL

VIA AIR MAIL

AMSD

REGULAR MAIL

Approved

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Special Agent in Charge

Sent

M

Per

cc-Belmont

APR 13 1953

65-58236-1604

436 NOV 14 1953

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

PAGE 2

Transmit the following Teletype message to:

[REDACTED] ADVISED ON 4-7-53 THAT [REDACTED] IS A CP MEMBER. b2

ADDITIONAL INFORMANTS OF THIS OFFICE WILL BE CONTACTED WITH REGARD TO THIS MATTER. ANY INFORMATION DEVELOPED BY SUCH CONTACT WILL BE FORWARDED TO THE BUREAU IMMEDIATELY FOR INFORMATION. b7D b7C

ALDEN

END

Approved: _____

Special Agent in Charge

Sent _____

M

Per _____

[APRIL 22, 1953]

CONFIDENTIAL

LEGAL ATTACHE
PARIS, FRANCE

HA
CABLE

URGENT

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE.

JULIUS ROSENBERG, ET AL., ESPIONAGE DASH R. INFORMATION
HAS BEEN RECEIVED THAT IN APRIL EIGHTEEN, FIFTY THREE,
EDITION OF QUOTE COMBAT UNQUOTE AND IN APRIL TWENTY,
FIFTY THREE, ISSUES OF QUOTE HUMANITE UNQUOTE AND QUOTE
FIGARO UNQUOTE THERE APPEARS WHAT PURPORTS TO BE A COPY
OF AN ORIGINAL SIGNED STATEMENT MADE BY DAVID GREENGLASS
IN FIFTY. THIS STATEMENT IS SUPPOSED TO BE CONTRARY TO
OTHER STATEMENTS MADE BY GREENGLASS TO BUREAU AGENTS
AND IS RESUME OF ALL HIS ACTIVITIES. STATE DEPARTMENT
OFFICIAL ADVISES THE ABOVE NEWSPAPERS ARE ALL PUBLISHED
IN PARIS AND COPIES WILL NOT BE AVAILABLE IN U.S. UNTIL
TWENTY FOUR OR TWENTY FIVE NEXT. SUCABLE SUMMARY OF
INFORMATION APPEARING IN PAPERS RE GREENGLASS AND FORWARD
VIA AIR MAIL COPIES OF SAID PAPERS IMMEDIATELY.

65-58236

Classified by 3042 PWT/lmw
Declassify on: OADR

HOOVER

CC - 1 - FOREIGN SERVICE DESK

APL:MEM

APR 29 1953

RECEIVED

APR 23 1953

CONFIDENTIAL

4-22-53

sent via Cable 17:30 PM

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

APR 15 1953

TELETYPE

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DATE 7/24/86 BY 3042 pwt/ale

Mr. Tolson ✓
Mr. Ladd ✓
Mr. Nichols ✓
Mr. Belmont ✓
Mr. Clegg ✓
Mr. Glavin ✓
Mr. Harbo ✓
Mr. Rosen ✓
Mr. Tracy ✓
Mr. Gearty ✓
Mr. Mohr ✓
Mr. Winterrowd ✓
Tele. Room ✓
Mr. Holloman ✓
Mr. Sizoo ✓
Miss Gandy ✓

WASH 1 FROM NEW YORK 15 - 12-05 AM
DIRECTOR URGENT

JULIUS ROSENBERG, ET AL. ES - R. AUSA KILSHEIMER ADVISED TODAY THAT HE CONTACTED MR. ERDAHL OF THE DEPT. IN AN EFFORT TO ASCERTAIN WHY THE SUPREME COURT DID NOT RENDER A DECISION ON THE THIRTEENTH IN INST. CASE. HE WAS INFORMED BY ERDAHL THAT HOWARD N. MEYER HAD WRITTEN A LETTER TO CHIEF JUSTICE VINSON FROM CALIF. ADVISING THE JUDGE THAT MORTON SOBELL-S TIME TO FILE HIS PAPERS ON APPEAL HAD BEEN EXTENDED TO APRIL NINETEEN, FIFTYTHREE BECAUSE THE CIRCUIT COURT DID NOT DENY HIS APPLICATION FOR A REHEARING UNTIL JAN: NINETEEN, FIFTYTHREE. MEYER ADVISED THAT IN SOBELL-S APPEAL HE WOULD RAISE TWO POINTS RAISED IN THE ROSENBERG APPEAL AND IN ADDITION WOULD RAISE TWO OTHER POINTS. IT WAS BELIEVED BY KILSHEIMER AND ERDAHL THAT THIS LETTER TO JUDGE VINSON CAUSED THE SUPREME COURT TO DELAY A DECISION ON THE ROSENBERG-S AND TO RULE IN THE FUTURE ON BOTH ROSENBERG AND SOBELL. FOR INFO.

BOARDMAN

HFC

RECORDED

APR 21 1953

62 APR 20 1953

cc Broney

AIRTEL
FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

ALL INFORMATION CONTAINED
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DATE 12-18-84

BY 200

NEW YORK, 4/13/53

Transmit the following Teletype message to: ~~BUREAU~~

JULIUS ROSENBERG; ET AL; ESPIONAGE - R. BUREAU ATTENTION

IS DIRECTED TO RECENT INFO SUBMITTED BY NY THAT EMANUEL

BLOCH WAS AWARE THAT DAVID GREENGLASS HAD TAKEN SOME URANIUM

FROM THE LABORATORIES AT LOS ALAMOS. IN VIEW OF THE *Plans*

IMPENDING DECISION IN THE SUPREME COURT AND THE BELIEF

THAT IF THIS DECISION IS AGAINST THE ROSENBERGS BLOCH

WILL THEREUPON FILE A MOTION IN THE DISTRICT COURT FOR A NEW

TRIAL ON THE GROUNDS OF NEWLY DISCOVERED EVIDENCE PROBABLY

ASSERTING THE THEFT OF URANIUM BY GREENGLASS AND THE FACTS

OF THE CONSOLE TABLE, A REVIEW HAS BEEN MADE OF BOTH THE

DIRECT AND CROSS TESTIMONY OF DAVID AND RUTH GREENGLASS

AND OF JULIUS AND ETHEL ROSENBERG. REFERENCES WILL BE

MADE TO THE PAGES IN WHICH THIS TESTIMONY IS FOUND AS

APPEARS IN THE PRINTED TRANSCRIPT OF THE RECORD. COPIES

WHICH WILL BE AVAILABLE TO THE BUREAU AT THE DEPARTMENT. ON

PAGE 564 OF HIS CROSS EXAMINATION DAVID REFERS TO THE TIME

THAT HE WAS QUESTIONED BY AN AGENT IN FEB., 1950. THERE WAS

NO DIRECT QUESTION ASKED AT THIS TIME AS TO WHETHER DAVID

HAD TAKEN ANYTHING FROM LOS ALAMOS. ON PAGE 578, THE QUESTION

ASKED WHETHER DAVID HAD WITHHELD ANY INFO FROM THE AGENTS

ON THE EVENING OF HIS ARREST AND HE ANSWERED "THAT IS SUBSTANTIALLY

3) BUREAU (REGULAR, REGISTERED, RECORDED)

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436 NC Approved
NOV 10 1960

Special Agent in Charge

~~APR 14 1953~~

Sent

Per

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

SECOND PAGE

Transmit the following Teletype message to:

WHAT I MEAN." ON PAGE 617, BLOCH ASKED WHETHER DAVID HAD TAKEN ANY SKETCH OR BLUEPRINT FROM LOS ALAMOS TO HIS HOME AND DAVID ANSWERED "NO I DIDN'T." ON PAGE 626, AFTER A SERIES OF QUESTIONS INVOLVING LENS MOLDS AND BLUEPRINTS, BLOCH ASKED "DID YOU EVER STEAL ANY DOCUMENTS, WHETHER IT BE BLUEPRINTS OR ANY OTHER MATTER, OR EVEN INCLUDING ANY MATERIAL, AND TAKE IT OUT OF THE PROJECT TO YOUR HOME?" ANSWER: "I DID NOT." QUESTION: "OR TO THE PLACE WHERE YOU STAYED." ANSWER: "I DID NOT STEAL ANYTHING OF THAT NATURE. I MADE A RADIO; I TOOK THE RADIO OUT; I SHOWED THEM THE RADIO ON THE WAY OUT, AND IT WAS PERFECTLY PERMISSIBLE TO DO THAT. I MADE A PHONOGRAPH ATTACHMENT; I BROUGHT THAT OUT WITH ME, TOO." THIS LAST WAS THE MOST PERTINENT QUESTION AS STATED FORTH TO DATE. THE RECORD WILL BE FURTHER EXAMINED AND ADDITIONAL EXCERPTS THEREFROM WILL BE SUBMITTED TO THE BUREAU PROMPTLY. THERE IS FORWARDED HEREWITH AS AN ATTACHMENT CLIPPINGS FROM THE "NATIONAL GUARDIAN" ISSUE OF 4/13/53, PAGES 1, 4 AND 5, WHICH REFER TO THE CONSOLE TABLE.

BOARDMAN

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

THE LAW

NEW YORK EDITION

Govt. 'answers' Rosenberg plea with shocking haste

THE attention of all GUARDIAN readers—who have magnificently led the now world-wide fight to save and clear the names of Ethel and Julius Rosenberg—is drawn to pages 4 and 5 of this issue, where the story is told of startling new evidence we have uncovered.

The facts now available, concerning key "evidence" by which the government attempted to link the Rosenbergs to "atom-spying," provide new proof that witnesses David and Ruth Greenglass—whose testimony convicted their relatives—committed perjury on the witness stand.

As this further confirmation of the perjury committed in the case came to light, the government took an action which could only be interpreted as one of desperation to rush the Rosenbergs to death as soon as possible.

"INDECENT HASTE": In a move which astounded the legal profession and was called "absolutely unprecedented" by several lawyers, the Justice Dept. delivered its "answer" to a defense petition for Supreme Court review of the Rosenberg Case before it had even received the petition.

This was the time-table of the "indecent haste" (as one lawyer described it) with which the government sought to block a high court review and possible new trial.

On March 30 defense atty. Emanuel Bloch submitted his petition (60 pages of legal argument plus 60 pages of appendices) to the clerk of the Supreme Court. It was accepted in typescript form to be filed with the court and sent to a printer to be set in type. Routine procedure gives a defense atty. ten days from the date of filing to serve the Justice Dept. with a printed copy. The government then has 30 days in which to prepare and file its answering brief.

NO REPLY ATTEMPTED: The printed copy of Bloch's petition was actually delivered to the Justice Department on April 2. The extent of the haste—in a case involving two human lives, and in which millions of people throughout the world challenge the justice of the sentence—was seen when the Dept. printed "reply" to the petition was filed with the Supreme Court on April 2, three days after Bloch filed the typescript. On April 3 Bloch received his copy of the "reply" in the mail.

The "reply" did not attempt to meet the arguments raised by Bloch in his 120 pages. The only reference to his new arguments was in a footnote on page 18 (which could have been inserted just before the printed brief was bound).

The defense petition contained detailed charges of the knowing use of perjured testimony, of "sordid scheming" to obtain a conviction and of prejudicial conduct by the prosecution. Major argument in the government's brief was that the defense "waited too long" to raise such challenges.

The defense petition contained detailed charges of the knowing use of perjured testimony, of "sordid scheming" to obtain a conviction and of prejudicial conduct by the prosecution. Major argument in the government's brief was that the defense "waited too long" to raise such challenges.

WORLD STILL FIGHTING: The Rosenbergs, convicted in April, 1951, and sentenced to death on a charge of conspiracy to commit espionage, are now under an indefinite stay of execution until final disposition of the present appeal to the Supreme Court. If a review is again denied, only a second appeal to the President for executive clemency remains to save their lives.

The world-wide campaign for clemency continued last week. In New York preparations went ahead for a huge outdoor rally in the Triborough Stadium on Randall's Island on Sun. April 22. During the week reports of clemency actions came in from Sweden, Argentina, Cuba, and several countries in Asia.

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N. Y. *National Guardian*

DATED 4/13/53

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486 NOV 10 1960

ENCLOSURE

65-58236-1607

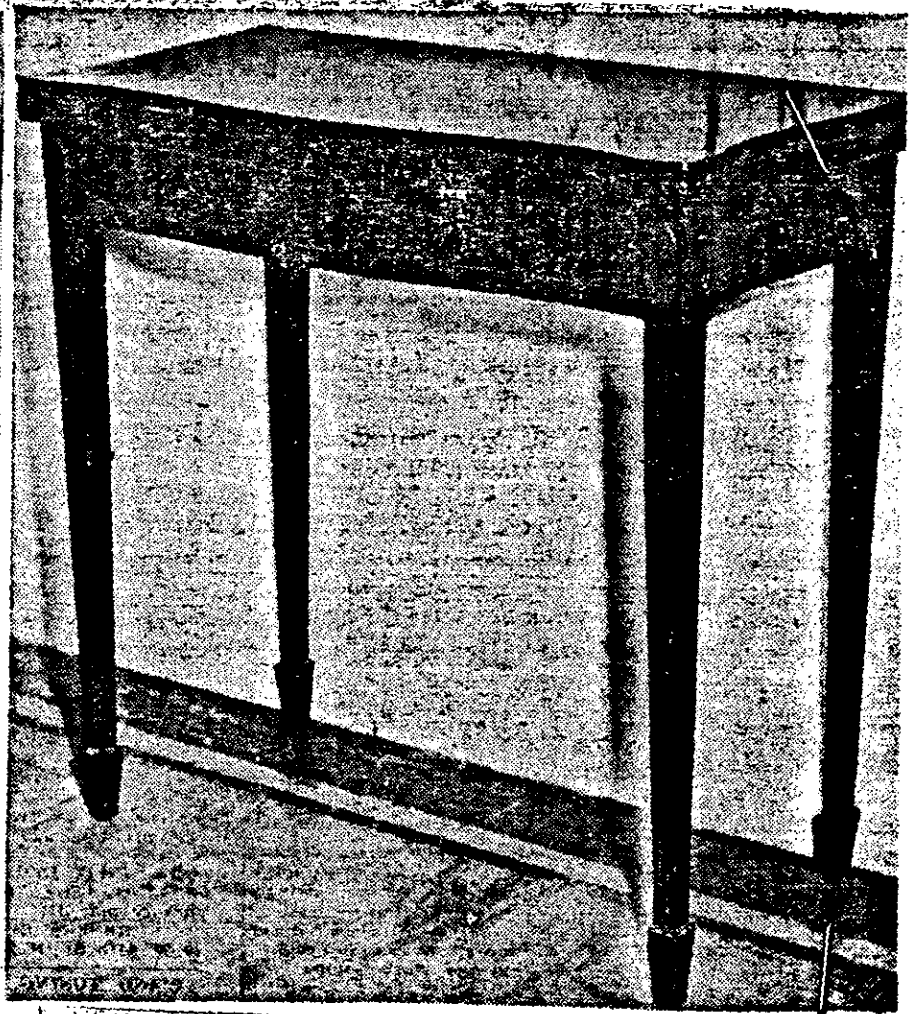
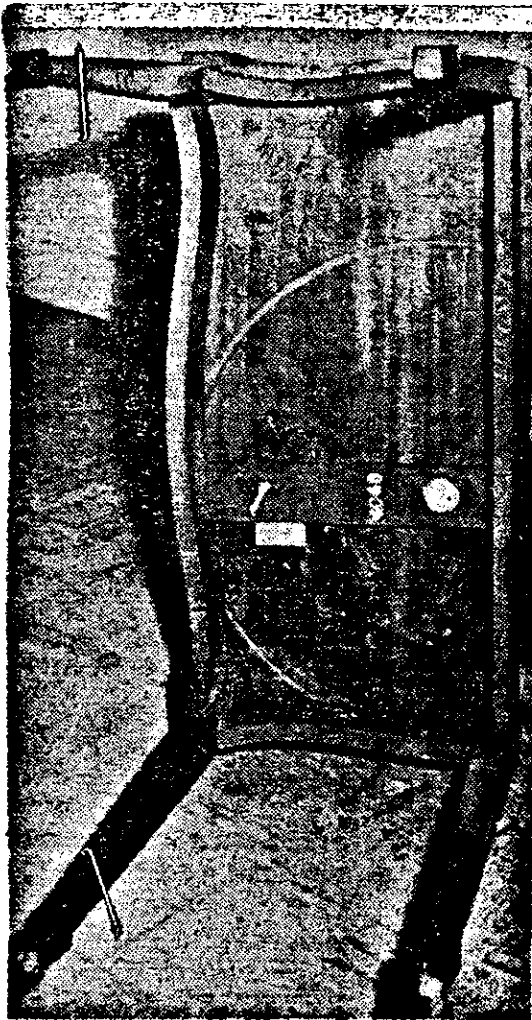
The missing table: the proof that key

Rosenberg Case witnesses lied

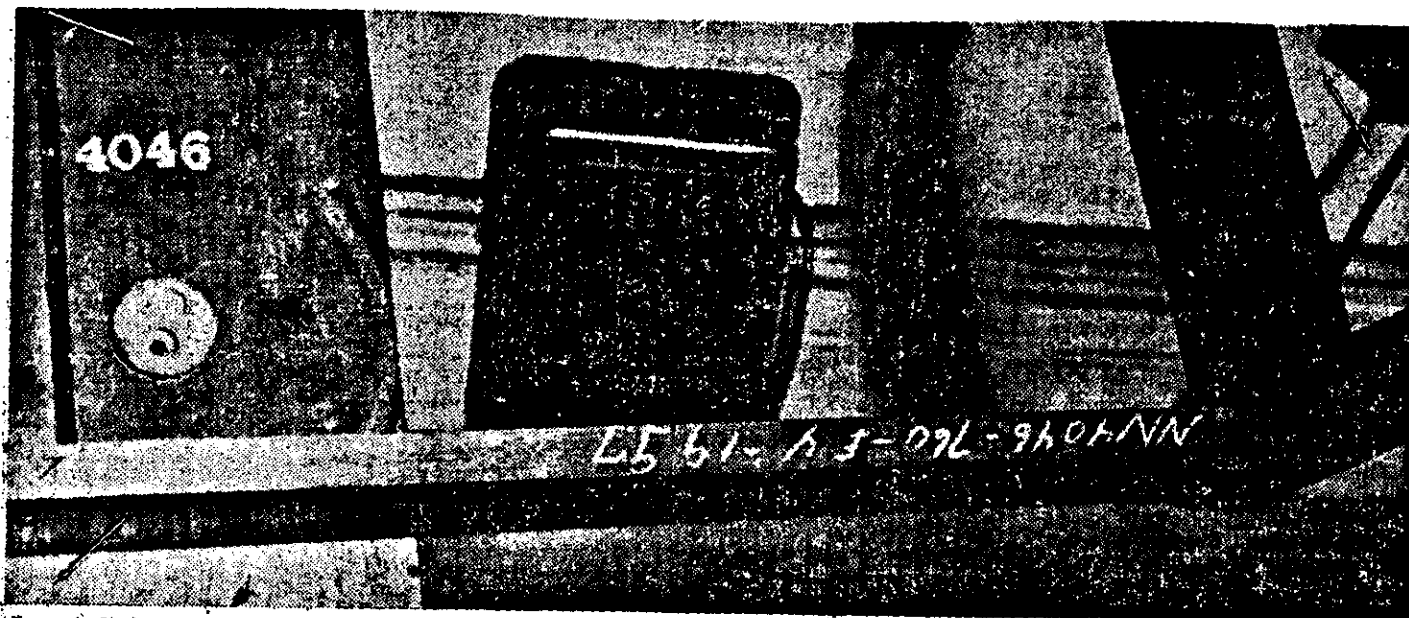
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N. Y. *National Guardian*
DATED 4/13/53
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65-58236-1607
ENCLOSURE



Top and bottom views of the Roanoke table. The top swivels around to a crossways position and opens up double to bridge-table size. The bottom view shows the manufacturer's pattern number 4046, and the latch which secures the top in either the side-table or four-place position. The semi-circle is a groove worn by swiveling the table top. The impossibility of using the table for light concealment, as testified to by the Greenglasses, would have been apparent had they been enabled to see the table.



Inverted view of the Rosenberg console table showing check markings discovered and photographed by the GUARDIAN. Markings proved to be E. H. Macy's code symbols. Macy's detailed affidavit on markings (see below) supports Rosenberg's testimony, refutes statements by the Greenglasses and prosecutor Saypol.

apparent that the couple's bail (\$100,000 for Julius, \$50,000 for Ethel) would be impossible to obtain.

Together with defense atty. Emanuel H. Bloch, Julius' brother David Rosenberg visited the apartment. As the Rosenbergs themselves later testified, the tiny apartment was shabbily furnished, mostly with second-hand items in bad repair. Even the console table, as Julius testified at the trial, was rickety and unstable. It was decided that everything the FBI had left behind was little more than junk and should be disposed of accordingly.

"EVERYTHING DISPOSED OF": Several days later, preparatory to surrendering the lease, Bloch checked with the family and was told that everything had been disposed of. At that time, with the trial still six months away, neither the family nor the defense (nor, apparently, the government) had any foreknowledge that the table would be injected into the trial—let alone that it would become such key "evidence."

In the absence of any such foreknowledge there was no reason for the Rosenberg family to inform Bloch that a few still serviceable items (such as a vacuum cleaner and some kitchenware as well as the table) had been salvaged from the junk and stored in the basement of a sister of Julius Rosenberg.

Even when the trial was in progress, Julius' sister had no idea, from the lurid stories told about it by the Greenglasses, that the cheap, harmless, badly-scratched and tumble-down table in her cellar could be the same one referred to as a "gift from the Russians" or "hollowed out" for microfilming apparatus, or worth at least \$85, as the prosecution insisted. Yet this was the only console table in the Rosenberg home, as David Greenglass himself testified.

"LOST"—AND FOUND: When the table became a major issue in the trial, defense counsel knew only that all the apartment's furnishings had been reported disposed of for junk six months earlier and were thus thought to be beyond recovery.

Hence the table remained unnoticed in the sister's basement until three months after the trial, when it was used in June, 1951, to help furnish a home for Julius Rosenberg's mother and the Rosenberg children, Michael and Robbie. It was kept there, still without any realization of its significance, until the **GUARDIAN** recently learned of its whereabouts—from a casual mention of the presence of a table in the Rosenberg mother's home which had formerly been in Julius' and Ethel's apartment.

The **GUARDIAN** immediately examined the table, discovered and photographed the markings underneath which later proved to be Mac's code symbols. A careful study of the trial record and interviews with all individuals concerned confirmed beyond any area of doubt that this is the table referred to at the trial.

Here is the testimony—from the official record

THE Rosenbergs' console table—their only possession cited as physical evidence that they were "equipped" for espionage purposes—is referred to on 75 pages of the trial record. Below are a few especially pertinent excerpts; page numbers refer to the transcript published by the Natl. Comm. on Security in the Rosenberg Case (1050 6th N. Y. C.; 2 vols.; 5th ed. "Fol." indicates official court record page numbers.)

First mention of the table in the trial came on March 12, 1951, when David Greenglass said his brother-in-law Julius Rosenberg had received a watch and "citation" from the Soviet government for his "spying." (Neither was ever produced.) Greenglass then testified (p. 521):

Q (U.S. ATTY. COHN) "Now, was there anything else that they received which they told you about?"

A "I believe they told me they received a console table from the Russians."

Ruth Greenglass added to her husband's story her description of the table (pp. 706-7):

Q (U.S. ATTY. KILSHEIMER) "Did you have conversation with the Rosenbergs concerning that table?"

A "Yes, I did."

Q "And was your husband also present?"

A "I think he was, yes."

Q "Now will you tell us what that conversation in connection with this console table as best you can recall it?"

A "I admired the table and I asked Ethel when she bought [fol. 1014] a new piece of furniture, she said she had not bought it, she had gotten it as a gift and I said it was a very nice gift to get from a friend, and Julius said it was from his friend and it was a

special kind of table, and he turned the table on its side to show us why it was so special."

Q "And what did he show you when he turned the table on its side?"

A "There was a portion of the table that was hollowed out for a lamp to fit underneath it so that the table could be used for photograph purposes, and he said when he used the table he darkened the room so that there would be no other light and he wouldn't be obvious to anyone looking in."

Q "And did Julius Rosenberg tell you what he photographed using that table?"

A "Yes. He took pictures on microfilm of the typewritten notes."

Julius Rosenberg denied flatly that he got the table or anything else "from the Russians," or that it was equipped for photography. His testimony as to

A "Yes, it was."

Q "Now, from time to time during the course of your living with your family at that apartment, did you have occasion to purchase new furniture?"

A "Only once did I purchase a new item."

Q "What item was that?"

A "A console table."

Q "And when did you purchase that?"

A "I would say it was either in 1944 or 1945."

Q "And from where did you purchase that console table?"

A "From R. H. Macy & Company."

Q "And how much did you pay for that console table?"

A "It was somewhere about \$21."

Q "Did it have"

the table's source and price is affirmed by the Macy affidavit (see p. 4).

How the absence of the \$19.97 Macy table from the courtroom permitted the jury to be influenced by prosecution misstatement appears from the following (p. 1211):

Q (U.S. ATTY. SAYPOL): "Don't you know, Mr. Rosenberg, that you couldn't buy a console table in Macy's if they had it, in 1944 and 1945, for less than \$85?"

A "I am sorry, sir. I bought that table for that amount. That was a display piece, Mr. Saypol, and I believe it was marked down."

Ethel Rosenberg's testimony supported her husband's that the table came from Macy's and made point for point the Greenglasses' attempt to link the table with "microfilming" (pp. 1331, 2).

Q (BLOCH): "Did your husband ever use any table, console table or any other table, for photograph purposes?"

A "No, he did not."

Q "Did your husband ever photograph on microfilm or any other substance anything pertaining to any information or secret concerning the national defense, or anything else at all?"

A "No, he did not."

Q "Your sister-in-law further testified in answer to a [fol. 1984] question, I think Mr. Kilsheimer put."

Q "And did Julius Rosenberg tell you what he photographed using the table?"—and her answer was:

A "Yes. He took pictures on microfilm of the typewritten notes. Did any such thing ever take place?"

A "No, it did not."

Q "Did your husband ever take pictures on microfilm of any typewritten notes?"

A "No, he did not."

Reproduction of Julius Rosenberg's testimony on transcript pages 1054-55, in answer to questions of defense atty. Bloch.

SAC, New York (65-15348)

April 21, 1953

Director, FBI (65-58236)

RECORDED-14

65-58236-1607
JULIUS ROSENBERG, et al.
ESPIONAGE - R

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 7/24/81 BY 3042PWT/nlc

Reurair-tel dated April 13, 1953, enclosing
clippings from the April 13, 1953, issue of the "National
Guardian."

It is noted that the Rosenbergs allege the
table remained in the Rosenberg apartment until October,
1950, thus indicating that Greenglass did not tell
the FBI about the table until some time after the arrest
of Rosenberg. It is argued that if Greenglass had fully
cooperated with the FBI at the outset and told the FBI
the console table story at that time, the FBI would have
taken the table from the apartment at the time of the
search.

In connection with the above, we have attempted
to determine, through a search of the case file, the
exact time when Greenglass furnished this information
to your office, with negative results. Also, the Bureau
files fail to reflect, at the time our agents searched
the Rosenberg residence on July 17, 1950, whether they
knew about the console table and made a specific search
for such table.

In view of the possibility that the Rosenbergs
may attempt to use the console table story as a basis for
a new trial in the event they are unsuccessful in the
Supreme Court, you are requested to promptly review your
files and interview agents in your office who handled
the Rosenberg case in an effort to determine when Greenglass
furnished the information concerning the table and whether
the agents who conducted the search of the Rosenberg
apartment knew about the table and made a specific search
for such table.

This matter should be handled expeditiously
so that the Bureau may promptly advise the Criminal Division
of the Department of the results thereof.

APL:mem

APR 21 1953
MAILED 25
COMM - FBI

Tolson _____
Ladd _____
Nichols _____
Belmont _____
Clegg _____
Glavin _____
Harbo _____
Rosen _____
Tracy _____
Laughlin _____
Mohr _____
Winterrowd _____
Tele. Rm. _____
Holloman _____
Gandy _____

53 MAY 5 1953

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

PAGE FOUR

Transmit the following Teletype message to:

THIS MEDALLION ON THE TABLE AND BELIEVED THAT THE LEGS WERE SIMILAR TO THE ROSENBERG TABLE. SHE STATED, HOWEVER, THAT THERE WAS NO GOLD LEAF OR GOLD LINES ON THE FRONT OF THE TABLE. SHE ADVISED THAT SHE WOULD COMMUNICATE WITH THIS OFFICE IN THE EVENT THAT SHE WAS AGAIN VISITED BY ANYBODY CONCERNING THE TABLE. THE BUREAU IS ADVISED THAT THE MATTER OF THE CONSOLE TABLE AND THE TAKING OF URANIUM BY DAVID GREENGLASS FROM LOS ALAMOS HAS BEEN DISCLOSED BY AUSA KILSHEIMER. THE BUREAU'S ATTENTION IS DIRECTED TO THE CASE OF "US VS. ON LEE", A CASE DECIDED IN THE COURT OF APPEALS, 2ND CIRCUIT, ON 2/5/53. IN THIS DECISION THE COURT STATES "IT IS GENERALLY SAID THAT FIVE REQUIREMENTS SHOULD BE MET BEFORE A NEW TRIAL WILL BE AWARDED ON GROUNDS OF NEWLY DISCOVERED EVIDENCE. SEE THE STATEMENT OF JOHNSON VS. US, 8TH CIRCUIT, 32 FED. 2ND 127,130, QUOTED IN BRANDON VS. US, 9TH CIRCUIT, 190 FED. 175,178: A) THE EVIDENCE MUST BE IN FACT, NEWLY DISCOVERED, THAT IS DISCOVERED SINCE THE TRIAL; B) FACTS MUST BE ALLEGED FROM WHICH THE COURT MAY INFER DILIGENCE ON THE PART OF THE MOVANT; C) THE EVIDENCE RELIED ON MUST NOT BE MERELY CUMULATIVE OR IMPEACHING; D) IT MUST BE MATERIAL TO THE ISSUES INVOLVED; E) IT MUST BE SUCH, AND OF SUCH NATURE, IE THAT ON A NEW TRIAL THE NEWLY DISCOVERED EVIDENCE WOULD PROBABLY PRODUCE AN ACQUITTAL. THE COURT GOES ON TO STATE THAT THE

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

PAGE FIVE

Transmit the following Teletype message to:

MOTION IS DISCRETIONARY. ON APPEAL THE DECISION ~~TERMS~~ ON WHETHER OR NOT THE TRIAL JUDGE ABUSED HIS DISCRETION AND THE COURT STATES "THE ORDER WILL NOT BE REVERSED UNLESS THE NEW MATERIAL TENDS TO FURNISH EVIDENCE OF THE DEFENDANT'S INNOCENCE AND IS SUCH AS WOULD PROBABLY PRODUCE AN ACQUITTAL". MRS. COX ALSO STATED THAT REVEREND WILLIAMSON HAD MENTIONED TO HER THAT THE TABLE HAD BEEN FOUND IN THE HOME OF JULIUS' MOTHER. THE BUREAU WILL BE PROMPTLY ADVISED OF FUTURE DEVELOPMENTS IN THIS REGARD.

BOARDMAN

CC: MR. BELMONT
~~AND SUPERVISOR~~
DOM. INTEL. DIVISION

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

Assistant Attorney General
Warren Olney III

April 27, 1953

Director, FBI

JULIUS ROSENBERG, ET AL
ESPIONAGE - R
(FBI File 65-56236) - 1609

ALL INFORMATION CONTAINED
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DATE 7/24/96 BY 3042 JAW/AL

RECORDED - 72

Reference is made to previous Bureau memoranda concerning the efforts of Emanuel Bloch, the Rosenbergs' attorney, to prove that the console table mentioned during the Rosenberg trial by David Greenglass had been bought by the Rosenbergs at Macy's Department Store in New York City. It was pointed out that Bloch claimed to have found the console table and had photographs of this table exhibited as representative of Macy's.

For your further information, copies of the photographs exhibited by Bloch to Macy's were obtained by our New York Office. Ruth Greenglass recently viewed these photographs and stated they resembled the console table which she had seen in the Rosenberg home. She added that it was her impression the curves on the ends of the table were more pronounced and more deeply scalloped. She recalled that the table was of a dark mahogany and had a reddish or cherry color.

It will be recalled that Mrs. Evelyn Cox, a Negro maid who worked part time for the Rosenbergs, testified at the trial as a government witness to seeing a new table in the living room in the Rosenberg apartment sometime in 1944. She described this table as a solid mahogany console table and as the most beautiful piece of furniture in the Rosenberg apartment. She asked Ethel Rosenberg where she had secured this table, and Ethel replied that it had been given to her husband by a friend as a gift. A short time after first seeing this table, Mrs. Cox recalled that she next observed it in a closet in the Rosenberg home. She asked Ethel why the table was in the closet and if she should place it back in the living room. Ethel told her to leave the table in the closet since it was too large for the living room.

Mrs. Cox was recently contacted by Agents of our New York Office and advised that last Fall a man representing himself as Reverend Harold Williamson and another unidentified

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53 MAY 5 1953

SECURITY INFORMATION - CONFIDENTIAL

negro came to her house and talked to her for three or four hours about the Rosenberg case. Williamson stated he was a "Humanitarian" and had read all about the case and wanted to help the Rosenbergs. Mrs. Cox further advised that on March 30, 1953, Williamson again came to her house with an unidentified negro and brought with him a console table. He stated that this was the table which belonged to the Rosenbergs and concerning which Mrs. Cox had testified at the trial. He asked her to identify the table as the one she had seen in the Rosenberg home. She stated that this table resembled the table she had seen in the Rosenberg home in its general outline but that this table was badly nicked and the finish was dull and dirty. Williamson also showed her photographs of this table. She stated that she told Williamson she would not state that the table he brought with him was the table she had seen in the Rosenberg home because it did not have the physical appearance as she last saw it. She stated that the Rosenberg table was new and shiny without any marks on it. She also advised that Williamson and the other man tried to convince her that the table they were showing was the Rosenberg table, and she refused to state that it was. Later on in the evening of March 30, 1953, an unidentified negro and a young, slim, white man, whose name she does not recall, came to her home and talked to her about the table. The white man told her he had the table outside and asked her to look at it and identify it as the Rosenberg table. She refused to do so. On April 1, 1953, the same white man again came to her home with a Notary Public who is a real estate man in the neighborhood. The white man requested her to sign an affidavit to the effect that the table which had been exhibited to her was or looked like the Rosenberg table. Mrs. Cox's daughter, Marel Capelle, injected herself and told the man that her mother would not sign anything until her husband, John Capelle, had examined the affidavit. The white man agreed to come back later that evening. When he returned, Mr. Capelle told the man that his mother-in-law would not sign any papers.

Mrs. Cox advised interviewing agents that she would never identify the table exhibited to her by these men as the Rosenberg table no matter what marks or letters were on it because she never looked under the bottom of the Rosenberg

table and knows of no marks that were on it. She advised the agents that the table looked something like the Rosenberg table. Her attention was directed to a photograph of this table which showed a line on the front of the table, together with two bright parts on the table which looked like medallions. She stated that she recalled this medallion on the Rosenberg table and believed that the legs were similar to the Rosenberg table. She stated, however, that there were no gold leaf or gold lines on the front of the table. She advised interviewing agents that she would advise the New York Office in the event she was again visited by anybody concerning the table.

For your further information, Reverend Harold E. Williamson mentioned above, Negro clergyman, is minister of the Inter-National Constitutional Church of Jersey City, New Jersey. He is known to have been active in the Citizens Emergency Defense Conference which is dedicated to the defense of persons prosecuted under the Smith Act. He has also been very active in connection with the activities of the "National Committee to Secure Justice in the Rosenberg Case," and was one of the leaders of the White House "vigil" during February, 1953, to secure clemency for the Rosenbergs.

You will be advised of any additional developments in connection with this matter.

Office Memorandum • UNITED STATES GOVERNMENT

TO : D. M. LADD

DATE: April 20, 1953

FROM : A. H. BELMONT

SUBJECT: JULIUS ROSENBERG, et al.
ESPIONAGE - RALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7/24/86 BY 3042 put/mcSYNOPSIS:

Rosenbergs' petition for writ of certiorari presently pending before Supreme Court. In event certiorari denied, it appears Rosenbergs will attempt further legal steps to obtain new trial on grounds of newly discovered evidence, as indicated by recent efforts of Emanuel Bloch, their attorney, to prove David Greenglass, main Government witness, committed perjury. Bloch attempted to secure affidavit from Bernard Greenglass, brother of David, that David admitted stealing uranium while at Los Alamos during 1944-46, and withheld this information from FBI. This refers to Bureau investigation instituted in 1949, in case [redacted] et al, Atomic Energy Act, Theft of Government Property, which involved thefts by numerous employees at Los Alamos of uranium hemispheres. Employees who had access to this material were interviewed by Bureau agents, including David Greenglass, who was interviewed during January or February, 1950, prior to our knowledge of his involvement in Soviet espionage. He denied theft.

David Greenglass reinterviewed 3-25-53, and now admits taking uranium as souvenir and throwing same in East River, NYC, after initial interview. Bloch will probably claim foregoing information contradicts testimony of Greenglass at trial that he did not withhold any information from FBI after his arrest in June, 1950. Bloch also attempting to prove Greenglass lied when he testified Rosenberg told him the Russians gave the Rosenbergs, as a present, a console table which was adapted by Rosenberg for photographic use in espionage. Greenglass also testified to seeing table in Rosenberg home. Rosenberg denied allegations and stated he purchased console table from Macy's in 1944 or 1945. Table was not produced at trial by defense. Bloch claims to have found table recently at home of Rosenberg relative and had photographs of table exhibited to Macy

65-58236

Attachment

mem

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representative to identify it. At Bloch's request, Macy representative signed affidavit 3-16-53, that it is type of table handled by Macy's and possible Macy's sold it during 1944 or 1945. On 3-25-53, Bureau agent exhibited photographs of this table to David Greenglass who advised table appeared to be same type as one he saw in Rosenberg home, but he could not be definite. Department has been advised of the foregoing information.

On 4-13-53, "National Guardian," pro-Communist weekly publication, carried Rosenberg story on console table, claiming it proves Greenglass lied. It is alleged table remained in Rosenberg apartment until October, 1950, indicating Greenglass did not tell FBI about it until some time after Rosenberg's arrest in July, 1950, otherwise FBI would have taken table at time of search of Rosenberg apartment. Bureau files fail to reflect exact date Greenglass gave console table story to us or whether agents who searched Rosenberg apartment made specific search for such table. Attached are clippings from "National Guardian."

RECOMMENDATIONS:

1. Attached is letter to NYO requesting search of its files and interviews of agents who handled Rosenberg case in an effort to fix time of Greenglass' story concerning console table and determine if specific search was made for such table at time of Rosenberg's arrest.

2. Also attached is memorandum to Criminal Division of Department forwarding Photostats of "National Guardian" clippings and advising of attempts being made to clarify this matter.

DETAILS:

You are aware that the Rosenbergs' petition for a writ of certiorari is presently pending before the U. S. Supreme Court.